

立法會

Legislative Council

LC Paper No. CB(2)2329/03-04

(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

Minutes of meeting

**held on Monday, 15 March 2004 at 2:30 pm
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 Cyd HO Sau-lan
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon Bernard CHAN, JP
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Dr Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Member attending : Dr Hon LO Wing-lok

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Michael MAK Kwok-fung
Hon MA Fung-kwok, JP

Public officers attending : Items IV - V

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement C H MAK
Permanent Secretary for Constitutional Affairs

Items IV - VII

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Items V - VII

Miss May CHAN Wing-shiu
Principal Assistant Secretary for Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

Item IV only

Mr Raymond TAM Chi-yuen
Principal Assistant Secretary for Constitutional Affairs

Ms Julina CHAN Woon-yee
Principal Assistant Secretary for Constitutional Affairs

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Millie WONG
Senior Council Secretary (2)4

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I. Confirmation of minutes of meeting
(LC Paper Nos. CB(2)1679/03-04 and 1680/03-04))

The minutes of the meeting on 15 January 2004 and the special meeting on 28 January 2004 were confirmed.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)1344/03-04(01), 1388/03-04(01) - (02), 1347/03-04, 1477/03-04, 1557/03-04, 1642/03-04, 1685/03-04 and 1691/03-04(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) LC Paper No. CB(2)1344/03-04(01) - Administration's response providing information on the election expense limits for elections in Singapore, Japan and Hong Kong, and the formula adopted for setting the limits;
- (b) LC Paper No. CB(2)1388/03-04(01) - Statement made by a spokesman for the Constitutional Affairs Bureau in response to the views expressed by Dr Hon YEUNG Sum in the "Letter to Hong Kong" programme broadcast on RTHK on 15 February 2004;
- (c) LC Paper No. CB(2)1388/03-04(02) - Transcript of a stand-up briefing on constitutional development given by the Secretary for Constitutional Affairs after attending the Panel meeting on 16 February 2004;
- (d) LC Papers Nos. CB(2)1347, 1477, 1557, 1642 and 1685/03-04 - Written submissions received by the Constitutional Development Task Force; and
- (e) LC Paper No. CB(2)1691/03-04(01) - Forms specified for use in

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connection with claims for financial assistance under the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections) (Application and Payment Procedure) Regulation.

III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)1686/03-04(01) - (02))

3. Members agreed that the following items should be discussed at the next meeting on 19 April 2004 -

- (a) Review on constitutional development after 2007;
- (b) Research Report on "The regulatory framework of political parties in Germany, the United Kingdom, New Zealand and Singapore";
- (c) Research Report on "Operation of electoral regulatory bodies in selected places"; and
- (d) Proposed guidelines on election-related activities in respect of Legislative Council elections (proposed by the Administration).

IV. Review on constitutional development after 2007

(LC Paper No. CB(2)1686/03-04(03))

4. Secretary for Constitutional Affairs (SCA) briefed members on the progress of work of the Constitutional Development Task Force (Task Force) since the last Panel meeting on 16 February 2004 (LC Paper No. CB(2)1686/03-04(03)).

5. Mr CHEUNG Man-kwong said that while the Task Force was in the process of consulting the public on issues of principle and legislative process, the Central Authorities had used different channels to solicit the views of the Hong Kong community on other issues, and some of these issues had aroused intense debate in the community, e.g. the question of patriotism and the desirability of introducing universal suffrage in 2007/08. Mr CHEUNG considered that the role of the Task Force had diminished, and questioned how the Task Force could achieve further progress in its work.

6. Ms Emily LAU said that Mr ZHU Yucheng, the Director of the newly established Institute of Hong Kong and Macao Affairs (IHKMA), would come to Hong Kong to listen to the views of different sectors of the community on the future constitutional development of Hong Kong. Ms LAU expressed concern about the duplication of roles of the Task Force and the IHKMA, and the existence

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of two power centres. Ms LAU raised the following questions -

- (a) whether the Hong Kong Special Administrative Region (HKSAR) Government had explained the current situation in Hong Kong to the Central Authorities, and had taken measures to address their specific concerns on matters relating to the future constitutional development of Hong Kong;
- (b) whether there was any overlap in roles and division of duties between the Task Force and the IHKMA; and
- (c) when the Task Force would visit Beijing after it had completed its first phase of work.

7. SCA said that the consultation on issues of principle and legislative process had been conducted with the aim of achieving consensus on these important issues and establishing a solid foundation for future work on constitutional development. During its visit to Beijing, the Task Force had reflected the views collected from organizations and individuals on Hong Kong's future constitutional development to the Central Authorities. The Central Authorities agreed that the issues of principle and legislative process should be dealt with. The Task Force hoped to complete the first phase of meetings by the end of March 2004, and to draw conclusions on these issues before proceeding further. SCA further said that the establishment of the IHKMA was a decision made by the Central Authorities. The Task Force would continue to maintain dialogue with the Hong Kong and Macao Affairs Office (HKMAO) of the State Council, and make arrangements to have further meetings with relevant departments of the Central Authorities at an appropriate time.

8. Mr Martin LEE commented that the Central Authorities had in effect sidelined the Task Force with the establishment of the IHKMA, and it was a waste of time for the Task Force to continue meetings with the public on issues of principle and legislative process. Dr YEUNG Sum was of the view that the Central Authorities had lost confidence in the HKSAR Government and attempted to assume the functions of the Task Force with the establishment of the IHKMA. He said that this was evident from the fact that the Task Force was only received by the Vice-Minister of HKMAO during its visit to Beijing in February 2004, whereas the leaders of the three political parties were recently received by Vice-President Zeng Qinghong. Dr YEUNG asked whether the role of the Task Force had been sidelined, and if not, when the Government would announce the timetable and specific proposals for constitutional review.

9. SCA said that the reception accorded to the Task Force during its visit to Beijing in February 2004 was appropriate. He did not believe that the Central Authorities had any intention to sideline the HKSAR Government. In fact,

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whenever CE visited Beijing, the Central Authorities had reaffirmed their support for CE's governance in accordance with the Basic Law. When CE attended the recent meetings of the National People's Congress and the Chinese People's Political Consultative Conference, he was received by top leaders of the Central Authorities. CE had also taken the opportunity to reflect to the Chinese leaders the current situation in Hong Kong and the views of Hong Kong people on issues relating to constitutional development. The Task Force would complete its first phase of work by end of March 2004 before proceeding further.

10. Mr Albert HO said that the scope of the review on constitutional development was very narrow, as it was mainly related to the methods for selecting CE and for forming LegCo stipulated in Annex I and Annex II to the Basic Law (the "electoral methods"). However, upon the return of the Task Force from Beijing, issues such as the principle of "One Country, Two Systems" and accountability of CE to the Central Authorities had been raised. He could not see the relationship between these issues and the "electoral methods".

11. SCA responded that the basic policies of the Central Authorities regarding Hong Kong were elaborated in the Sino-British Joint Declaration. The Basic Law, prescribing the systems to be practised in the HKSAR, was enacted to ensure the implementation of the basic policies. As the political structure of the HKSAR constituted an important element of the Basic Law, any proposed changes to the political structure should not affect the basic policies of the Central Authorities regarding Hong Kong. It was therefore important for the issues of principle and legislative process in the Basic Law relating to constitutional development to be thoroughly discussed to lay the path for the future work of constitutional development.

12. Mr HO said that any changes to the "electoral methods" within the confine of the Basic Law would not affect the power of the Central Authorities and the relationship between the Central Authorities and the HKSAR. The Government had failed to explain why expanding the electorate for electing CE and LegCo Members, or the abolition of the functional constituency system for LegCo election would affect the implementation of "One Country, Two Systems". He was of the view that the Government had willfully procrastinated on the review on constitutional development.

13. SCA reiterated that the "electoral methods" were an integral part of the political structure of the HKSAR, and any amendments proposed to the "electoral methods" should comply with the principles of the Basic Law. For example, some organizations considered that the functional constituency system should be retained to realize the principle of "balanced participation". It was therefore necessary to consider whether any changes proposed to the method for forming LegCo adhered to this principle.

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14. Miss Margaret NG said that the Chief Secretary for Administration had indicated at the special meeting of the House Committee on 27 February 2004 that the first round of consultation conducted by the Task Force would conclude when the Task Force received no new views on the issues identified by the Task Force. She asked SCA about the present position.

15. SCA responded that the website on constitutional development recorded a daily hit rate of about 2,000 counts, and a number of written submissions were received by the Task Force on a daily basis. The views received lately were within the expectation of the Task Force. The first phase of meetings with organizations and individuals was expected to complete around the end of March 2004.

V. Publicity for 2004 Voter Registration Campaign
(LC Paper No. CB(2)1686/03-04(04))

16. SCA briefed members on the main features of the 2004 voter registration campaign. SCA said that to coincide with the LegCo elections to be held on 12 September 2004, a 6-week voter registration campaign would be conducted from 3 April to 16 May 2004 with the objectives of encouraging eligible persons to register as electors and reminding registered electors who had changed addresses to update their records. A variety of activities would be organized to promote voter registration. The cost of the voter registration campaign was estimated to be about \$12 million.

Provision for voter registration campaign and registration rate

17. Dr YEUNG Sum said that the number of registered electors for the LegCo geographical constituencies (GCs) and functional constituencies (FCs) in September 2003 was 2.97 million and 0.16 million, representing 65.67% and 60.5% of the estimated total number of eligible electors respectively. The Administration should increase the provision of \$12 million for the 2004 voter registration campaign in order to register as many electors as possible. He also considered that the Administration should have a target rate of registration in the forthcoming campaign, e.g. 80 - 85 % of the estimated number of eligible electors for GCs.

18. SCA responded that the provision of \$12 million had been arrived at after careful consideration. The provision was more than the \$8 million provision for the voter registration campaign for the 2003 District Council (DC) election, albeit lower than that for the 2000 LegCo election. The Administration hoped to receive 480,000 application forms within 2004, 180,000 of which were for registration as electors and the remaining 300,000 for updating of addresses or personal particulars of registered electors.

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19. Dr YEUNG asked about the basis for setting the target of 480,000 application forms. SCA advised that the working target was arrived at having regard to the actual figures achieved in the 2003 DC election, i.e. 436,600 applications.

20. Ms Emily LAU said that as about 1.6 million eligible electors had not yet registered, the target to register 180,000 new electors was too low. She urged the Administration to increase the provision for the 2004 voter registration campaign and to set a higher working target for voter registration. Ms LAU also asked the Administration to provide the number of application forms for voter registration obtained by different political parties and other organizations from the Registration and Electoral Office (REO) for distribution to eligible electors.

21. SCA said that for the 2000 voter registration campaign, the cost was \$40.6 million and 445,000 application forms were received by REO. The average cost per application form was about \$90. A provision of \$12 million had been reserved for the 2004 voter registration campaign, and more cost-effective measures would be adopted in this year's campaign. The working target was to receive 480,000 application forms in 2004. SCA further said that different political parties and other organizations had already obtained 400,000 application forms for voter registration from REO. With the joint efforts of the Government and different sectors, it was hoped that the upcoming campaign would achieve a good result.

22. Chief Electoral Officer (CEO) supplemented that as part of the voter registration campaign for the 2000 LegCo election, door-to-door visits to two million households were conducted and the cost incurred for the household visits accounted for about 50% of the provision for the campaign. However, the result was found to be less effective than that for the 2003 DC election. It was therefore decided that household visits would not be conducted in the 2004 voter registration campaign.

23. Dr YEUNG Sum pointed out that the high voter registration rate in the 2003 DC election was attributed to the effects of the procession on 1 July 2003. For the 2004 LegCo election, he urged the Government to make more efforts to achieve a higher registration rate, e.g. by conducting household visits. SCA responded that a number of factors had an impact on the registration rate in the 2003 DC election. A variety of activities would be included in the 2004 voter registration campaign to register as many electors as possible.

24. Dr YEUNG Sum asked about the ratio of registered electors living in private housing and those living in public housing. SCA agreed to provide the information after the meeting, if available.

25. Ms Audrey EU asked whether the Administration would consider implementing automatic voter registration. SCA responded that the

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Administration had considered the matter in detail and had come to the view that eligible persons should continue to be given the personal choice of whether to register as an elector.

Deadline for application for voter registration

26. Mr Martin LEE queried the excessive time gap of four months between the deadline for application for voter registration (16 May 2004) and the polling day (12 September 2004), and asked whether the time gap could be narrowed.

27. SCA said that the Legislative Council Ordinance was amended in 2002 to reduce the time gap between the publication of electoral registers and the polling day. CEO supplemented that the deadline for accepting applications for voter registration had been deferred from March to May, and the gap between the publication of the final register of electors and the polling day would now be about two months.

28. Mr Martin LEE noted that the date for publication of the provisional register of electors would be 15 June 2004, and queried whether the provisional register was necessary as the number of objections or claims should not be many. SCA agreed to provide the relevant figures for members' reference.

29. The Chairman suggested that the Administration should review whether the gap between the deadline for application for voter registration and the polling day could be further reduced, and to make reference to overseas practices in conducting the review. The Chairman also suggested that the Research and Library Services Division of the LegCo Secretariat could also be requested to provide information for reference of the Panel.

Appeal letters to FC electors

30. Ms Emily LAU queried why individual appeal letters would be sent to eligible FC electors, but not eligible GC electors. She pointed out that the number of eligible electors who had not yet registered for FC elections was about 0.1 million, whereas that for GC elections was about 1.6 million.

31. SCA said that individual appeal letters would be sent to eligible FC electors as the voter registration rate for FC elections was comparatively low, and the personal particulars of eligible FC electors could be obtained from relevant organizations. Ms LAU objected to the arrangement as FC electors were given preferential treatment over GC electors.

32. Ms Audrey EU suggested that user-friendly guidelines on the eligibility for registration as electors in the 28 FCs should be prepared for reference of eligible electors. CEO responded that the Legislative Council Ordinance had set out the eligibility for registration as an elector in each FC. A member of the public who

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had any question on his eligibility to register as an FC elector could also contact the REO through the Enquiry Hotline (Tel. No. 2891 1001). CEO said that consideration was being given to uploading the relevant information onto the website in the next voter registration exercise.

33. Ms EU further asked whether all eligible FC electors would receive individual appeal letters. Deputy Secretary for Constitutional Affairs responded that appeal letters would be sent by REO to all eligible persons who had not registered as FC electors, and the list of eligible electors was compiled based on the information provided by relevant organizations.

Disqualification of electors

34. Mr CHEUNG Man-kwong pointed out that some FC electors had been disqualified from voting as they had failed to notify REO of their new addresses. CEO explained that REO would try to contact the elector concerned through his office or residential telephone numbers, if available, before including his name on the omissions list. Mr CHEUNG opined that a registered GC and FC elector with inaccurate residential address should only be disqualified from being an elector for GC, but not for FC. CEO explained that under the relevant provisions of the Legislative Council Ordinance, a person was eligible to be registered as an FC elector only if he was a registered GC elector.

35. Mr CHEUNG suggested that the Administration should, in the coming voter registration campaign, promote public awareness that a registered GC and FC elector with inaccurate residential address might be disqualified from being an elector for both GC and FC. CEO agreed to consider the suggestion.

36. The Chairman asked whether a registered elector who had changed his residential address without informing REO could continue to vote at the polling station previously allocated to him. CEO responded that a registered elector could vote at the polling station allocated to him on the basis of his old residential address if REO was not aware of the fact that he had changed his address. However, if REO had reasons to believe that a registered elector was no longer residing in the address reported, his name would be removed from the final register. Nevertheless, REO would make various attempts to contact the elector concerned before taking action to remove his name from the final register.

(Post-meeting note : The Administration's response to issues raised by members at the meeting was issued vide LC Paper No. CB(2)1866/03-04 on 29 March 2004.)

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VI. Polling and counting arrangements for 2004 Legislative Council elections

(LC Paper Nos. CB(2)1309/03-04(03) and 1686/03-04(05))

37. CEO briefed members on the Electoral Affairs Commission (EAC)'s response to the concerns raised made by Members on the proposed voting and counting arrangements for GCs at the meeting on 16 February 2004, namely, the consistency of standard adopted by Presiding Officers in determining the validity of questionable ballot papers, and the openness and transparency of the counting process (LC Paper No. 1686/03-04(05))

38. On EAC's proposal to use optical mark reader (OMR) machines to count FC votes, CEO said that in view of the reservations expressed by Members on the reliability of OMR machines at the demonstration session on 25 February 2004, EAC considered it undesirable to pursue further the proposal in the 2004 LegCo election.

39. Ms Emily LAU said that the Frontier disagreed with EAC's proposal that vote counting for GCs in the coming LegCo election should be decentralized to individual counting stations, as it would be difficult for some candidates to deploy sufficient manpower to monitor the counting process at individual counting stations. Ms Cyd HO was in support of Ms LAU's view. She also expressed concern that under the proposal, candidates could not raise objections in person to any decisions made on questionable ballot papers.

40. CEO said that for the 2004 LegCo election, arrangements would be made for the public to observe the counting process at a shorter distance from the counting zone. On members' concern about manpower deployment, CEO suggested that candidates could consider appointing their polling agents as counting agents to monitor the counting process.

41. The Chairman expressed disappointment that EAC had not responded to the main concerns raised by members. For example, he considered that the principle of mixing ballot papers from polling stations within a GC before counting should be maintained, so as to safeguard the integrity of the electoral process. CEO responded that EAC had noted the Chairman's concern and considered that there was no harm in revealing the extent of support towards different candidates in individual counting stations.

42. The Chairman and Ms Cyd HO said that the Administration should provide sufficient justifications to support EAC's proposal. CEO responded that in making the proposal, the main consideration of EAC was that the vote counting process could be conducted more efficiently. In addition, EAC also considered

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that the risks associated with the transportation of ballot papers would be minimized.

43. The Chairman objected in principle to the proposed decentralized counting arrangements for GCs. He remained of the view that ballot papers from polling stations within a GC should be mixed before counting. The Chairman also considered the suggestion to appoint polling agents as counting agents to monitor the vote counting process unreasonable, in view of the long working hours of polling agents on the election day.

VII. Guidelines on election-related activities issued by the Electoral Affairs Commission

(LC Paper No. CB(2)1309/03-04(05))

44. CEO briefed members on EAC's response to the comments made by members on the Guidelines on Election-related Activities in respect of the District Council Election (the Guidelines) at the meeting on 15 December 2003, and the written submission from the Democratic Alliance for Betterment of Hong Kong to the Panel.

45. Mr Howard YOUNG disagreed with EAC's view that candidates should share the expenses equally of the production and display of a joint election advertisement. As GC and FC candidates in LegCo elections had different election expense limits, he strongly requested EAC to consider that the amount of expenses incurred by the candidates of a joint election advertisement should be calculated in proportion to their respective election expense limits. Mr James TIEN supported Mr YOUNG's view.

46. CEO said that candidates of a joint election advertisement had an equal opportunity to promote themselves at the election, and each of the candidates would therefore derive the same amount of benefit from the joint election advertisement. The proposal of calculating the expenses in proportion to the election expenses limits of their respective constituencies would not be fair, as GC candidates might be subsidizing FC candidates while they received the same amount of benefit.

47. Ms CHOY So-yuk suggested that the amount of expenses incurred by the candidates of a joint election advertisement should be calculated in proportion to the number of registered electors of their respective constituencies.

48. CEO said that the position of EAC was set out in the paper. He would reflect members' views to EAC for consideration.

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49. Ms Emily LAU asked about the progress in the appointment of the Nominations Advisory Committees (NACs) to provide free legal advice on the eligibility for nomination as candidates. CEO responded that EAC would publish a notice in the Gazette on 19 March 2004 to announce the appointment of four NACs which would provide services to prospective candidates until the day before the nomination period started.

50. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
14 May 2004