

立法會

Legislative Council

LC Paper No. CB(2)2846/03-04

(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

Minutes of meeting

**held on Monday, 17 May 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
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Bernard CHAN, JP
Hon SIN Chung-kai
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Wong-fat, GBS, JP
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 Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP

Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

**Members
absent** : Hon Albert HO Chun-yan
Hon HUI Cheung-ching, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Ping-cheung

**Public officers
attending** : Item IV, V and VIII
Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement MAK Ching-hung
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

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

Items V and VIII only
Miss May CHAN Wing-shiu
Principal Assistant Secretary for Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

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

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

Mr Watson CHAN
Head (Research and Library Services)

Mr Thomas WONG
Research Officer 4

Miss Millie WONG
Senior Council Secretary (2)4

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I. Confirmation of minutes of meetings

(LC Paper Nos. CB(2)2329/03-04, 2330/03-04 and 2331/03-04)

The minutes of the meetings held on 15 March 2004, 31 March 2004 and 16 April 2004 were confirmed.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)2096/03-04(01), 2181/03-04(01), 2127/03-04(01) - (02), 2189/03-04(01) - (02) and 2239/03-04(01))

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

- (a) LC Paper Nos. CB(2)2096/03-04(01) and 2181/03-04(01) - Administration's response dated 19 and 26 April 2004 clarifying issues raised by members at the meeting on 19 April 2004 concerning (a) Electoral Affairs Commission Report on the 2003 District Council Election; and (b) Proposed Guidelines on Election-related Activities in respect of the Legislative Council Elections;
- (b) LC Paper No. CB(2)2127/03-04(01) - Press release on "Statement issued by the Chief Executive on 19 April 2004";
- (c) LC Paper No. CB(2)2127/03-04(02) - Press release on "Visit of the Task Force to meet representatives of Standing Committee of the National People's Congress in Shenzhen on 22 April 2004";
- (d) LC Paper Nos. CB(2)2189/03-04 (01) - (02) - Ms Emily LAU's letter dated 29 March 2004 on "Publicity for 2004 Voter Registration Campaign" and the Administration's reply; and
- (e) LC Paper No. CB(2)2239/03-04(01) - Press release issued by the Electoral Affairs Commission on 30 April 2004 concerning applications to register names and emblems for the 2004 Legislative Council election.

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III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)2333/03-04(01) - (02))

3. Members agreed that the following items should be discussed at the next meeting on 21 June 2004 -

- (a) Review on constitutional development after 2007;
- (b) Publicity for the 2004 Legislative Council election (proposed by the Administration);
- (c) Research Report on "Operation of electoral regulatory bodies in selected places" (deferred from this meeting); and
- (d) Research Report on "The regulatory framework of political parties in Germany, the United Kingdom, New Zealand and Singapore" (deferred from this meeting).

4. The Chairman drew members' attention to the item "Constitutional issues pertaining to prorogation of the Council" (item 10 of LC Paper No. CB(2)2333/03-04(01)), which was referred from the Committee on Rules of Procedure to the Panel. He suggested and members agreed that the item should be discussed in the next term of LegCo.

IV. Review on constitutional development after 2007

(LC Paper Nos. CB(2)2333/03-04(03) - (06))

Briefing by Secretary for Constitutional Affairs (SCA)

5. SCA briefed members on The Third Report of the Constitutional Development Task Force: Areas which may be Considered for Amendment in respect of the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008 (the Third Report). SCA said that, in accordance with the provisions of the Basic Law and the decision of the Standing Committee of the National People's Congress announced on 26 April 2004 (the NPCSC Decision), the Third Report had set out the following areas which might be considered for amendment in respect of the methods for selecting the Chief Executive (CE) in 2007 and for forming the Legislative Council (LegCo) in 2008 (the "electoral methods") -

Areas which may be considered for amendment in respect of the method
for selecting the CE in 2007

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- (a) the number of members of Election Committee (EC);
- (b) the composition of EC;
- (c) the number of members of EC required for nominating candidates for the office of the CE;
- (d) the delineation and size of the electorate of EC;

Areas which may be considered for amendment in respect of the method for forming the LegCo in 2008

- (e) the number of seats in the LegCo;
- (f) the number of seats returned by geographical constituencies (GCs) through direct elections;
- (g) the number of seats returned by functional constituencies (FCs);
- (h) the delineation and size of the electorate of LegCo FCs; and
- (i) provisions regarding nationality of LegCo Members.

6. SCA said that following the publication of the Third Report, the Constitutional Development Task Force (Task Force) had started to collect views and specific proposals from the community on how the “electoral methods” might be amended. A three-month period up to 31 August 2004 would be set aside for collecting views. During the consultation period, the Task Force would organize a series of seminars for different sectors of the community to discuss the Third Report and to put forth their views, and the first seminar would be held on 24 May 2004. If any political groups or other organizations and individuals put forth their written submissions and specific proposals to the Task Force, the Task Force might, upon their request and as necessary, arrange to meet with them. SCA further said that apart from the areas which might be considered for amendment as set out in the Third Report, the Task Force also welcomed views and specific proposals from different sectors of the community on other areas regarding the “electoral methods”.

Consultation period and timetable

7. Ms Emily LAU considered that the period of consultation up to 31 August 2004 was too short and should be extended to allow thorough deliberation within the community. In addition, as the LegCo election would be held on 12 September 2004, some interested organizations or individuals participating in the election might not have time to respond to the Third Report

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before the election. She requested the Administration to consider extending the consultation period.

8. SCA responded that in line with Government's usual practice for public consultation, about three months was proposed for the consultation this time round. The Task Force could consider extending the period for consultation, if necessary. He suggested that the situation be reviewed towards the end of the consultation period.

9. Ms Audrey EU asked whether there would be a second round of consultation following the current consultation exercise. She said that if proposals were made to increase the number of members of the EC, or the number of seats of FCs, there should be further consultation to seek views on the details of these proposals, such as whether the number of eligible voters for the EC should be correspondingly increased, and what the new FCs would be.

10. Ms EU requested the Government to provide a timetable on various steps leading to the implementation of amendments to the "electoral methods" in 2007. She expressed concern that LegCo would be given very little time to consider the relevant legislative proposals, as in the case of implementation of Article 23 of the Basic Law or the accountability system for principal officials. Ms EU was also of the view that it was very difficult for the public to put forward specific proposals as it was unclear what proposals would or would not be allowed.

11. SCA responded that the Task Force would collate the views received after the consultation period ending on 31 August 2004, and put together a range of possible options by this fall for further consultation with the public. It was necessary for all parties within the community to reach consensus on proposals which fell within the parameters set by the NPCSC. Thereafter, legislation could be enacted in 2005-06 to implement the new electoral arrangements in 2007.

Areas for amendment in respect of the "electoral methods"

12. Ms Emily LAU asked whether the following proposals were allowed in principle -

- (a) to elect the EC by "one person, one vote"; and
- (b) to expand the size of the electorate of FCs to say, 100,000 - 300,000 electors, and to abolish corporate electors.

13. SCA said that the Task Force welcomed specific proposals within the framework of the Basic Law and the NPCSC Decision adopted on 26 April 2004. Proposals which fell outside the framework would unlikely obtain the support of the three parties, i.e. a two-thirds majority of LegCo Members, CE and NPCSC.

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SCA further said that the main provisions of the NPCSC Decision were that the election of the third term CE in 2007 and the formation of the whole of the fourth term LegCo in 2008 should not be by universal suffrage. Any proposals which sought to implement universal suffrage indirectly, such as adopting a system similar to the presidential election in the United States (the US system), might contravene the NPCSC Decision. However, proposals to expand the size of the electorate of the EC and FCs could be considered.

14. Ms LAU asked SCA to clarify which part of the NPCSC Decision had ruled out implementation of universal suffrage by indirect means. SCA reiterated that in his view, since the NPCSC had ruled out implementation of universal suffrage in 2007 and 2008, the proposal to elect EC members by "one person, one vote" could contravene the NPCSC Decision.

15. The Chairman pointed out that in his view, the US system was a form of direct election. Under the US system, "Presidential Electors" elected would cast their votes for the presidential candidates whom they had pledged to support. However, if members of the EC were elected by "one person, one vote", and the EC members were not bound to support any of the candidates in the CE election, this was different from the US system. Hence, election of CE by EC members who were in turn elected by "one person, one vote" should not be regarded as election of CE by universal suffrage.

16. The Chairman went further to say that the Task Force must have its own understanding of the NPCSC Decision, and would therefore form its views on whether certain proposals conformed with the NPCSC Decision or not. It was necessary to state clearly the limits of the amendments which were acceptable to the Task Force. Otherwise, the consultation would be rendered meaningless.

17. Miss Margaret NG expressed support for the Chairman's view and considered SCA's reply to Ms Emily LAU's question went beyond the NPCSC Decision. Miss NG said that Members had previously been accused of suggesting universal suffrage in Hong Kong ahead of the US which had not implemented such a system. As SCA had now advised that the US President was elected by universal suffrage, she requested the Government to clarify its stance on the matter.

18. SCA responded that the views and proposals received during the consultation period would be made public, as long as there was no objection from the relevant organizations or individuals. The stance of the Task Force was that the proposals should not go beyond the parameters of the NPCSC Decision. SCA explained that he had attempted to respond to Ms Emily LAU's question by using the example of the US system, and he believed that what Ms LAU had suggested might contravene the NPCSC Decision. He noted the Chairman's comments on the US system. However, his focus was not on direct election versus indirect

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election, but whether the proposed method for electing CE was a disguised form of universal suffrage, which would contravene the NPCSC Decision.

19. Ms Audrey EU said that the NPCSC Decision had ruled out universal suffrage, i.e. the right of all members of a community to vote. She asked whether voting by a certain percentage (e.g. 80% or 90%) of the registered electors to elect CE or all LegCo Members would be allowed under the NPCSC Decision.

20. SCA said that it was impracticable for him to advise further what proposed amendments to the "electoral methods" would conform with the Basic Law and the NPCSC Decision at this stage. The important principle was that successful implementation of any proposals would require the support of the three parties.

21. Mr Martin LEE referred to Article 68 of the Basic Law, and said that paragraph 2 had set out the general requirements for forming the LegCo in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress. The specific requirements were set out in Annex II to the Basic Law, with the composition of the 60 LegCo Members for the first, second, and third terms.

22. Mr LEE pointed out that the directly elected seats returned by GCs had been increased by one-fifth in the second term from 20 to 24, and by one-fourth in the third term from 24 to 30. Mr Alan HOO, a barrister, had pointed out that according to the actual situation and the principle of gradual and orderly progress, the directly elected seats could be increased by one-third from 30 to 40 in the fourth term in 2008, and increased by 50% from 40 to 60 in 2012. Under the proposal made by Mr HOO, Hong Kong's constitutional development would progress in a gradual and orderly manner. Mr Allen LEE, a local deputy to the NPC, had also commented that if the ratio between LegCo Members returned by GCs and FCs was to remain unchanged in 2008, the situation would not accord with the principle of gradual and orderly progress in achieving democratic development, given the adoption of the proportional representation voting system for GCs. Mr LEE sought SCA's comments on the views of Mr HOO and Mr LEE.

23. SCA responded that the NPCSC Decision only referred to the elections of CE in 2007 and LegCo Members in 2008. The meaning of "gradual and orderly progress" could be looked at from a wider perspective. For example, enhanced representativeness of the elections could be achieved by increasing the number of seats in the EC, FCs and GCs, and expanding the size of the electorate of the EC and FCs. Any of these proposals would allow constitutional development to move forward, in accordance with the principle of gradual and orderly progress.

24. Mr SZETO Wah asked whether proposals relating to the voting system such as the proportional representation system, the "single-seat-single-vote" system, and the "double-seat-double-vote" system would fall within the areas

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considered for amendment. He pointed out that the voting system for GCs was neither referred to in the NPCSC Decision nor included in the areas which might be considered for amendment in the Third Report.

25. SCA said that the nine areas which might be considered for amendment in respect of the "electoral methods" were set out in the Third Report, but they were not exhaustive. As indicated in paragraph 1.13 of the Third Report, the Task Force welcomed views and proposals on other areas regarding the "electoral methods".

Remarks made by Mr ZHU Yucheng on 15 May 2004

26. Dr YEUNG Sum said that the Democratic Party and other pro-democracy groups in Hong Kong had pursued universal suffrage in accordance with the principles of "One Country, Two Systems" and "a high degree of autonomy", as well as the provisions of the Basic Law. However, Mr ZHU Yucheng, the Director of the Institute of Hong Kong and Macao Affairs and a senior official in the Mainland, had publicly said at a forum on 15 May 2004 that the pro-democracy groups were contemplating to turn Hong Kong into an independent or semi-independent political entity through advocating democratic development. Dr YEUNG said that Mr ZHU's remarks were far from the truth.

27. Dr YEUNG and Mr CHEUNG Man-kwong asked whether the Government agreed with Mr ZHU's remarks, and whether the Government had taken actions to clarify the matter or would turn a blind eye to such remarks.

28. The Chairman said that under Article 45 and Article 68 of the Basic Law, the ultimate aim was the elections of CE and LegCo Members by universal suffrage. He asked whether according to the Basic Law, Hong Kong would become independent with the implementation of universal suffrage, and requested the Government to clarify its position on the matter.

29. SCA responded that the position of the Government was that Hong Kong was a Special Administrative Region (SAR) of the People's Republic of China. He had clearly stated on different occasions that the majority of Hong Kong people loved the country and Hong Kong, and supported the reunification with China after 1997 and the implementation of the Basic Law in Hong Kong. He believed that the Central Authorities were fully aware of the situation. He would not wish to interpret Mr ZHU Yucheng's remarks, but would be happy to reflect the views of Members to the Central Authorities if Members so wished.

30. Mr CHEUNG Man-kwong requested the Government to make a statement on its position regarding Mr ZHU Yucheng's remarks, and to clarify in the statement that there were no grounds or evidence to suggest that people in Hong Kong fighting for democracy was for the purpose of turning Hong Kong into an

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independent or semi-independent political entity. SCA said that he had no further comments to add.

31. The Chairman said that the Government's choice to remain silent on Mr ZHU Yucheng's remarks would give an impression that Hong Kong would indeed become an independent political entity with the implementation of universal suffrage. SCA reiterated that the ultimate aim of having universal suffrage in democratic development was provided for in the Basic Law.

32. Miss Margaret NG said that it was clear that the Central Authorities had serious misconceptions about the aspirations of the Hong Kong community towards democratic development and universal suffrage. She requested SCA to clarify with the Central Authorities that the Hong Kong community had not made any demand for Hong Kong to become an independent or semi-independent political entity. SCA said that he could not clarify with the Central Authorities the positions taken by individual Members. Nevertheless, the Government could reflect Members' views on the matter, if any, to the Central Authorities.

33. To elaborate on Miss Margaret NG's point, the Chairman asked whether or not, according to the Government's analysis, there was anyone in Hong Kong attempting to turn Hong Kong into an independent political entity. SCA responded that the issue raised was a sensitive one. As Hong Kong had over 6 million people, he could not give a generalized response. All he could say was that Hong Kong was a stable society, the people respected the rule of law, and he was confident that the SAR Government could continue to govern Hong Kong in accordance with the law.

34. Mr Martin LEE considered SCA's response irresponsible. He asked the five Government officials present at the meeting whether any of them had heard that any person in Hong Kong was seeking independence for Hong Kong. SCA responded that he had not heard of any such views from among Members.

35. Mr LEE further said that remarks about seeking independence for Hong Kong were not made by the people of Hong Kong, but by Mainland officials such as the legal experts and Mr ZHU Yucheng. He requested the Government to ask Mainland officials to stop making such remarks.

36. SCA said that Mr LEE had made a serious accusation against Mainland officials which was not based on facts. The Mainland officials he knew had been acting in accordance with the Basic Law and would not do anything to jeopardize the exercise of sovereignty by the Central Authorities over Hong Kong and Hong Kong's high degree of autonomy.

37. Mr CHEUNG Man-kwong suggested that the Panel should invite Mr ZHU Yucheng to a Panel meeting to elaborate on his remarks made at the forum and to

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have a direct dialogue with members of the Panel. Members agreed. Ms Emily LAU suggested that the Administration should provide assistance as appropriate.

(Post-meeting note : On the advice of the Administration, the Chairman's invitation letter to Mr ZHU Yucheng was hand delivered to his local office for onward transmission to Mr ZHU on 21 May 2004. A copy of the letter was issued vide LC Paper No. CB(2)2510/03-04.)

Other issues

38. Ms Audrey EU referred members to Appendix 1 on "The voters for EC Subsectors" and Appendix 3 on "The Electors for FCs" in the Third Report. She sought clarification about the slight discrepancies in the number of voters/electors for the same subsector/FC, e.g. the number of voters for the Accountancy EC subsector was 13,149, whereas the number of electors for the Accountancy FC was 13,151.

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39. SCA responded that this was perhaps due to the fact that some individuals were eligible to be registered in two or more FCs and were asked to choose to be registered in one of the FCs. Ms EU said that as the numbers referred to registered voters/electors, and not those eligible to be registered as voters/electors, the numbers should be the same. SCA agreed to request the Chief Electoral Officer to provide further information.

40. Ms Cyd HO said that the Third Report had set out the electors of FCs, but had not specified how they were elected. Many electors of FCs were appointed by CE, e.g. the 100 District Council members and some Council members of higher education institutions. Ms HO further said that in the Industrial (First) FC, 672 bodies and one individual were registered as electors. She sought clarification as to why there was only one individual registered as elector for the FC.

41. SCA said that the qualifications of electors of FCs were detailed in the Legislative Council Ordinance. Deputy Secretary for Constitutional Affairs said that the constituents of the Industrial (First) FC were members of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation, and they were mainly corporate electors. Under the Federation of Hong Kong Industries Ordinance, CE could appoint three persons to be members to sit on the General Committee of the Federation, and these members were entitled to vote at the general meetings of the Federation. One of these members had registered as an elector for the FC.

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V. Rules on voting

(LC Paper Nos. CB(2)2393/03-04(01) - (02))

42. Chief Electoral Officer (CEO) briefed members on the paper (LC Paper No. CB(2) 2393/03-04(01)) which addressed members' concern over the recent spate of media interest on the adequacy of existing legislation on the use of force or duress against electors with a view to influencing their voting behaviour, and the use of mobile telephones and the taking of photographs inside polling stations.

43. Mr CHEUNG Man-kwong said that some callers to radio phone-in programmes had complained of interference by Mainland authorities and companies (including officials from the United Front Work Department and the Public Security Bureau), and local offices in Hong Kong, in the LegCo election to be held in September 2004. Some people were urged to register as electors and to vote for candidates who were patriotic. Some people claimed that they were offered HK\$300 in return for voting for particular candidates. Mr CHEUNG said that if any person in Hong Kong accepted an advantage as an inducement to vote at the election, he would commit an offence under ECICO. He asked what measures would be taken to enforce the law if the offence involved Mainland officials/residents, and whether the Government would approach the Mainland authorities to follow up such cases.

44. CEO advised members that ECICO applied to all conduct concerning an election, whether the conduct was engaged within Hong Kong or elsewhere (section 5). SCA stressed that the relevant authorities would enforce the legislation vigorously. Any person who had committed an offence under the electoral law would be prosecuted, irrespective of whether the person was a Hong Kong or a Mainland resident.

45. Mr CHEUNG asked whether and when the Government would approach the Mainland authorities concerning the reported cases, in view of the seriousness of the matter. SCA said that any person who had been induced or threatened to vote for a particular candidate should report the case to the Independent Commission Against Corruption (ICAC), which would take appropriate follow-up action following investigation. Mechanism was in place to deal with cases which involved Mainland residents. If considered necessary, ICAC would report to CE who would decide on the actions to be taken, including taking up the matter with the Central Authorities.

46. Dr YEUNG Sum said that it was an offence for any person to induce or to bribe another person, or to use or to threaten to use force or duress against another person, to vote for a particular candidate (sections 11 and 13 of the Election (Corrupt and Illegal Conduct) Ordinance (ECICO)). Furthermore, it was an offence for electors to use mobile telephones or take photographs inside polling stations (section 45 of the Electoral Affairs (Electoral Procedure) (Legislative

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Council) Regulation (EAC(EP)(LC) Regulation)). In view of the recent reported cases in mass media, Dr YEUNG said that the public might not be aware of the relevant electoral legislation, and requested that the Electoral Affairs Commission (EAC) should allocate resources to strengthen publicity in this respect.

47. Ms Emily LAU expressed serious concern about the reported cases resulting in the public losing confidence in the electoral system. She said that as a result of interference by some influential people in the Mainland, some Hong Kong residents were worried about their families or investments in the Mainland. She urged the Administration and EAC to take positive measures to address the situation, so that public confidence in the electoral process could be restored.

48. Ms LAU further said that it was an offence for taking photographs inside polling stations under the EAC(EP)(LC) Regulation. She was astonished to learn that CEO, the official responsible for electoral matters, had suggested on a radio programme that an elector under duress to vote for a particular candidate could take a photograph of the ballot paper after marking his vote for that particular candidate. He could then tear the ballot paper in exchange for a second ballot paper and vote for the candidate of his own preference.

49. SCA said that the Government placed great importance on maintaining an open and honest electoral system. Any person who was under duress to vote for a particular candidate should make a report to ICAC. Enforcement action would be taken against substantiated cases. SCA further said that CEO was aware that the example he had given on the radio programme was inappropriate and had subsequently made an apology.

50. CEO supplemented that according to section 45 of EAC(EP)(LC) Regulation, a person could not use a mobile telephone or pager machine, and take photographs inside polling stations. Notices would be posted at the entrance of polling stations and inside voting compartments to remind electors of the requirements. EAC would consider implementing enhanced measures in response to Dr YEUNG Sum's earlier request.

51. Mr Jasper TSANG expressed support for the ICAC to investigate reported complaints and to take prosecution actions against any person, including Mainland officials, for committing an offence under the electoral law. However, he expressed concern about wide-spread "hearsay" cases targeting at Mainland officials which were neither substantiated nor reported to ICAC for investigation. He considered such "hearsay" cases totally unfair and would have a negative impact on the 2004 LegCo election. While he noted Dr YEUNG Sum's earlier comment that this was probably due to the fact that the public was not familiar with the electoral law, he also questioned whether other motives were involved. Mr TSANG asked what measures would the Government take to deal with the situation.

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52. SCA responded that the Government would act according to the law. ICAC had announced earlier on the day that it had received two complaints concerning elections, and they were not related to Mainland officials or voter intimidation.

53. Mr TSANG requested the Government to provide statistics on complaints received in the past elections relating to the use of force or duress against electors with a view to influencing their voting behaviour, and the outcome of the complaints. SCA agreed to request the Registration and Electoral Office and ICAC to provide the relevant information.

(Post-meeting note : The Administration's response was issued vide LC Paper No. CB(2)2555/03-04 on 27 May 2004.)

54. Miss Margaret NG said the Government should adopt a very clear position in safeguarding the two most important principles of the electoral system, i.e. fairness in elections and secrecy of voting. On the "hearsay" cases of using camera-equipped mobile telephones in polling stations, the Government should initiate actions to tackle any likely problems brought about by new technology, instead of adopting a wait-and-see attitude. Miss NG also said that a person would report a case to ICAC at the risk of revealing his own identity only if he was confident that legislation governing offences in relation to voter intimidation would be strictly enforced. Miss NG further suggested that to educate the public, the Government should publicize the Dos and Don'ts in elections, and the fact that the LegCo election was an internal affair of Hong Kong.

55. SCA said that the Government was committed to conducting public elections in an open, honest and fair manner, and would not tolerate "money politics". ICAC was the agency for enforcing electoral legislation, and the public had confidence in the reputation and ability of ICAC in handling these cases. Miss NG pointed out that as the alleged illegal or corrupt conduct might be engaged in the Mainland, it was not enough for Hong Kong to take action alone. SCA reiterated that ECICO applied to all conduct engaged within Hong Kong and elsewhere. ICAC had in place arrangements with overseas and Mainland law enforcement agencies in investigation of any reported cases.

56. Mr Fred LI said that his office had received reports on two cases concerning interference on the forthcoming LegCo election by the Mainland authorities. In the first case, a Hong Kong resident had received a phone call from his relative in Haifeng saying that officials of the Public Security Bureau had asked him to vote for certain candidates and not to vote for pro-democracy candidates. In the second case, a Hong Kong businessman who had investment in the Mainland said that the United Front Work Department had held meetings with Hong Kong businessmen in different provinces and asked them to vote for the

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political parties that were patriotic, and not to vote for pro-democracy groups. The businessmen were also asked to submit names of their colleagues in Hong Kong so that the relevant authorities could contact them concerning voter registration. In both cases, no force or duress was used. Mr LI was concerned that the interference by the Mainland authorities and officials in Hong Kong's local elections would infringe the principles of "One Country, Two Systems" and "a high degree of autonomy", and asked what measures would be taken and whether the Government would conduct investigation in the Mainland in view of these reports.

57. SCA said that he could not comment on the cases referred to by Mr LI, and advised that the individuals concerned should make a report to ICAC if they had evidence. Mr LI pointed out that the individuals concerned were often reluctant to report the cases to ICAC as they had business investments in the Mainland. He urged the Government to take proactive measures to contact the individuals. SCA responded that it would be more appropriate to refer Mr LI's views to ICAC for consideration. The Constitutional Affairs Bureau, being a policy bureau, should not be involved in the investigation of cases.

58. Mr IP Kwok-him commented that Hong Kong had very stringent electoral law, as compared with the US and Taiwan. He was surprised to hear of the concerns of some members about the anxiety within the community and the need to restore the public's confidence in the electoral system. He said that the use of mobile telephones inside polling stations was prohibited under the EAC(EP)(LC) Regulation which was considered in detail by a subcommittee of LegCo. Voter intimidation was also prohibited under ECICO. Mr IP asked whether the Government had received any complaints in the past concerning voter intimidation involving places outside Hong Kong and what measures had been taken by the Government.

59. CEO said that as far as he could recall, no complaint had been received regarding the use of mobile telephones or taking of photographs inside polling stations. He could not recall receiving any complaints about voter intimidation involving places outside Hong Kong.

60. Mr Martin LEE and Ms Audrey EU requested the EAC to consider the suggestion of prohibiting electors from carrying mobile telephones into polling stations. The suggestion should not be rejected purely on the ground that electors would be unduly inconvenienced. Ms EU drew the Administration's attention to the fact that under the existing law, no video recording equipment was allowed in a cinema or theatre.

61. Ms Cyd HO expressed concern that it would be difficult for polling staff to enforce the law against the use of mobile telephones and taking photographs inside the voting compartment which was an enclosed area. The Chairman

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suggested EAC to consider removing the front veil of the voting compartment, or requesting electors to place their camera-equipped mobile telephones outside the voting compartment. Mr SIN Chung-kai added that with the use of some 3G mobile telephones, it was possible to live broadcast the voting process to a distant location. He expressed concern about corrupt conduct at elections of small FCs, such as those with about 100 electors.

Admin 62. SCA said that the views and concerns raised by members would be conveyed to EAC for consideration. He reiterated that any person who considered himself to be under threat or duress in relation to voting should make a report to ICAC.

VI. Research Report on "Operation of electoral regulatory bodies in selected places"

VII. Research Report on "The regulatory framework of political parties in Germany, the United Kingdom, New Zealand and Singapore"

63. Members agreed that these two items should be deferred to the next meeting.

VIII. Any other business

Voter registration for the 2004 LegCo election

64. SCA informed members that 490,000 voter registration forms had been received as at 16 May 2004, including new applications and applications for change of particulars of electors. In addition, over 30,000 forms had been received from end of 2003 to early April 2004, and 170,000 forms concerning changes of particulars had been referred from the Immigration Department and the Housing Authority. The total number of forms received was about 690,000, and the working target for the 2004 calendar year had been achieved.

(Post-meeting note : The Administration's paper on results of the 2004 Voter Registration Campaign was issued vide LC Paper No. CB(2)2820/03-04 on 16 June 2004.)

65. The meeting ended at 4:35 pm.