

**Panel on Constitutional Affairs**

**List of outstanding issues**  
*(position as at 18 June 2004)*

**Proposed  
timing for  
discussion**

**1. Application of certain provisions of the Prevention of Bribery Ordinance (Cap. 201) (POBO) to the Chief Executive (CE)**

The item was first discussed by the Panel at the meeting on 9 February 1999 and followed up at a number of meetings. Members considered it appropriate to codify the common law offence of bribery so that CE would be subject to the same regulatory framework applicable to government officers or public servants under POBO.

To be advised by Director of Administration

At the meeting on 21 January 2002, the Administration advised that it would work out the appropriate legislative amendments to set out in separate provisions a regulatory framework for application to CE, making reference to that being applied to government officers under POBO. The legislative proposal would be introduced into LegCo in the 2002-2003 legislative session.

The legislative proposal was not included in the Government's Legislative Programme for 2002-03 and 2003-04. As advised by the Constitutional Affairs Bureau (CAB), the Administration Wing of the Chief Secretary's Office would revert to the relevant Panel once it is in a position to do so.

**2. Mechanism for amending the Basic Law**

Discussions on this item were held by the Panel since the 1998-1999 legislative session.

To be advised by CAB

At the meeting on 17 July 2001 when the item was last discussed, the Administration advised that it was continuing discussion with the Central Authorities regarding the issues identified, particularly those relating to the Standing Committee of the National People's Congress (NPC), the State Council, the local NPC deputies and the Basic Law Committee.

CAB advised in writing in May 2004 that it would revert to the Panel once it was in a position to do so.

### **3. The question of "important bill" under Article 50 of the Basic Law**

At the meeting on 20 December 1999, the Panel requested the Administration to clarify the meaning of "important bill" in BL 50. The Administration advised at the meeting on 19 June 2000 that given the complex issues and factors involved in deciding whether a bill was "important", it needed more time to study the matter before forming a mature view.

To be advised  
by CAB

The Research Report on "Parliamentary Handling of Non-ordinary Bills" prepared by the Research and Library Services Division (RLSD) was presented to the Panel on 7 May 2001 (RP10/00-01).

CAB advised in writing in May 2004 that it would revert to the Panel on this item once it was in a position to do so.

### **4. Review on Constitutional development after 2007**

In January 2004, the Chief Executive (CE) appointed a Task Force headed by the Chief Secretary for Administration with the Secretary for Justice and Secretary for Constitutional Affairs as members, to handle the work relating to the development of Hong Kong's political structure, to consult the relevant departments of the Central Authorities, and to listen to the views of the public.

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The Task Force released its First Report on 30 March 2004. The Standing Committee of the National People's Congress (NPCSC) made an interpretation of Clause 7 of Annex I and Clause 3 of Annex II to the Basic Law on 6 April 2004. The Task Force submitted its Second Report to CE on 14 April 2004 and CE submitted a report to the NPCSC on 15 April 2004. The NPCSC made a decision on issues concerning the methods for selecting CE in 2007 and for forming the Legislative Council (LegCo) in 2008 on 26 April 2004. The Task Force issued its Third Report on 11 May 2004 to set out the areas which may be amended in respect of provisions in the Basic Law relating to the methods for selecting CE and for forming LegCo.

The Task Force briefed the Panel on its progress of work at regular and special meetings of the Panel since January 2004.

### **5. Review of District Councils (DCs)**

The Chief Executive stated in his 2004 Policy Address that the Government would review the function and composition of DCs at a suitable time.

To be advised by  
CAB

Members requested that the review should cover issues such as the roles, functions, composition of DCs, delineation of constituency boundaries, appointed membership of DCs, and the desirability of adopting the proportional representation system for DCs elections.

CAB advised in writing in May 2004 that in 2004-05, it would begin to make suitable preparations for the review, and would also take into account the operation of the second term DCs since 2004. CAB would work closely with the Home Affairs Bureau and other relevant bureaux and departments in the process.

**6. Restrictions on activities of former holders of the office of the Chief Executive (CE)**

At the meeting on 19 March 2001, the Administration advised the Panel that there was no restriction imposed on commercial or political activities of former holders of the office of CE in and outside HKSAR under the present legislation. At the meeting on 17 July 2001, the Administration briefed members on its preliminary research on the arrangements applicable to heads of governments after stepping down from office in a number of overseas countries.

To be advised by  
CAB

RLSD presented its Research Report on "Restrictions on Activities of Former Heads of Government and Former Senior Members of Government" to the Panel on 21 January 2002 (RP02/01-02), and provided supplementary information on the subject (LC Papers Nos. CB(2)1081/01-02(04) and CB(2)1494/01-02(01)).

CAB advised in writing in May 2004 that it would revert to the Panel on this item once it was in a position to do so.

**7. Accountability system for principal officials and related issues**

The six-month Report on Implementation of the Accountability System for Principal Officials was considered by the Panel at its meeting on 17 February 2003. The 12-month Report was considered by the Panel at its meeting on 21 July 2003. The Administration agreed to consider carefully a number of issues raised by members.

To be advised by  
CAB

At the meeting on 17 November 2003, the Director of Administration Wing of the Chief Secretary's Office briefed the Panel on the outcome of the review of the transfer of statutory powers and functions currently vested in the offices of the Chief Secretary for Administration and Financial Secretary to the respective Directors of Bureaux.

At the meeting of the Panel on Home Affairs on 13 February 2004, the Home Affairs Bureau briefed members on the progress of the review of advisory and statutory bodies, and would keep members posted of the progress and outcome of the review.

CAB advised in writing in May 2004 that it would report progress on the outstanding issues to the relevant Panels once it was in a position to do so.

## **8. Political party law**

At the meeting on 17 November 2003, members endorsed the research outline prepared by RLSD on "The regulatory framework of political parties in Germany, New Zealand, and Singapore". At the suggestion of a member, the Panel agreed that the United Kingdom would also be included in the research study. On 15 April 2004, the Panel held an informal meeting to consider the draft report. The research report will be presented to the Panel on 21 June 2004.

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## **9. Composition, functions and operation of the Electoral Affairs Commission**

At the meeting on 17 November 2003, members endorsed the research outline prepared by RLSD on "Operation of electoral regulatory bodies in selected places". On 5 March 2004, the Panel held an informal meeting to consider the draft report. The research report will be presented to the Panel on 21 June 2004.

21 June 2004

## **10. Constitutional issues pertaining to prorogation of the Council**

On 23 April 2004, the Committee on Rules of Procedure (CroP) informed the House Committee of its views regarding the calling of emergency meetings and the operation of the Legislative Council and its committees during the prorogation of the Council.

To be discussed by the Panel in the next term

On the recommendation of CroP, the House Committee agreed to refer the following issues to the Panel for consideration -

- (a) whether the Legislative Council Ordinance should be amended to transfer to the President the power to prorogue the Council; and

- (b) whether the operation of the Council and its committees, which had been terminated during prorogation, could resume only when emergency Council meetings were called at CE's request.

Council Business Division 2  
Legislative Council Secretariat  
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