

立法會
Legislative Council

LC Paper No. CB(2)1528/04-05

(These minutes have been seen
by the Administration)

Ref : CB2/BC/6/04

**Bills Committee on
Chief Executive Election (Amendment)
(Term of Office of the Chief Executive) Bill**

**Minutes of the third meeting
held on Saturday, 23 April 2005 at 9:00 am
in Chamber of the Legislative Council Building**

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Hon Howard YOUNG, SBS, JP (Deputy Chairman)
- Hon James TIEN Pei-chun, GBS, JP
- Hon Albert HO Chun-yan
- Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
- Hon LEE Cheuk-yan
- Hon Martin LEE Chu-ming, SC, JP
- Dr Hon LUI Ming-wah, JP
- Hon Margaret NG
- Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Hon CHAN Yuen-han, JP
- Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Hon LEUNG Yiu-chung
- Hon SIN Chung-kai, JP
- Dr Hon Philip WONG Yu-hong, GBS
- Hon WONG Yung-kan, JP
- Hon Jasper TSANG Yok-sing, GBS, JP
- Dr Hon YEUNG Sum
- Hon Miriam LAU Kin-ye, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon CHOY So-yuk
- Hon Andrew CHENG Kar-foo
- Hon LI Fung-ying, BBS, JP
- Hon Tommy CHEUNG Yu-yan, JP
- Hon Audrey EU Yuet-mee, SC, JP
- Hon Vincent FANG Kang, JP

Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Hon MA Lik, JP
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin

**Members
absent**

: Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
Dr Hon Joseph LEE Kok-long
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Albert Jinghan CHENG
Hon TAM Heung-man

**Public Officers
attending**

: Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

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

Mr Bob ALLCOCK
Solicitor General

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting &
Administration)

Attendance by invitation : The Democratic Party

Mr Gary FAN
Deputy Spokesman of DP on Constitutional Affairs

New Territories Association of Societies

Mr LAI Sum

Democratic Alliance for Betterment of Hong Kong

Mr Ben CHEUNG
Deputy Spokesperson of DAB's Constitutional
Affairs

蘇屋邨居民協會

陳偉明先生
理事長

Liaison Sub-committee, the Chinese General
Chamber of Commerce

Mr KAN Wai-wah
Committee Member

Kowloon Federation of Associations

Mr LEUNG Ying-piu
President

New Century Society Ltd

Mr Stanley LUI

Sha Tin Youth Association

Mr KWONG Kam-wing

Hong Kong Federation of Students

Mr CHAN Ka-chun
Representative

Hong Kong University Students' Union

Mr TSE Chi-hang
Vice President (External)
The Hong Kong Polytechnic University Students'
Union

Mr. YEUNG Ka-kui
President

The Student Union of the Hong Kong Shue Yan
College

Mr LIU Kwan-ming
President

Hong Kong Youth Association

Mr NG Wai-tat

Federation of Hong Kong Kowloon New Territories
Hawker Associations

Mr LAM Kwei-cheong
Chairman

YUA Current Affairs Society

Mr WONG Hok-kut
President

Kowloon Women's Organisations Federation

Ms ZHENG Zhen
Vice President

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

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

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Meeting with the Administration

(LC Paper Nos. CB(2)1348/04-05(01), 1352/04-05(01) – (10) and 1372/04-05(01) – (04))

The Bills Committee met with representatives of the deputations and the Administration. The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee noted that there were 16 written submissions provided by 17 deputations (one deputation provided two submissions, and two deputations had yet to provide submissions). 16 deputations had appeared before the Bills Committee to give oral representations. 12 out of the 17 deputations expressed support for the Bill and/or the Government of Hong Kong Special Administrative Region (HKSARG)'s request for an interpretation of Article 53(2) of the Basic Law regarding the term of office of the Chief Executive by the Standing Committee of the National People's Congress (NPCSC). The remaining five deputations did not support the Bill and/or the HKSARG's request for an interpretation by NPCSC.

(Post-meeting note : A written submission provided by a member of the Tsuen Wan District Council after the meeting was issued to members vide LC Paper No. CB(2)1406/04-05(03) on 28 April 2005.)

II. Any other business

3. Members briefly discussed the arrangements for future meetings and agreed that it would be discussed in more detail at the next meeting to be held on next Monday, 25 April 2005 at 8:30 am. Members agreed that the meeting scheduled for Saturday, 30 April 2005 for the purpose of receiving deputations would no longer be necessary and would be cancelled.

4. The meeting ended at 11:50 am.

Annex

**Proceedings of the third meeting of the Bills Committee on
Chief Executive Election (Amendment)
(Term of Office of the Chief Executive) Bill
on Saturday, 23 April 2005 at 9:00 am
in Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000335	Chairman	Opening remarks.	
000336 - 000815	The Democratic Party	Presentation of views (LC Paper No. CB(2)1352/04-05(01)).	
000816 - 001137	New Territories Association of Societies	Presentation of views (LC Paper No. CB(2)1372/04-05(03)).	
001138 - 001634	Democratic Alliance for Betterment of Hong Kong	Presentation of views (LC Paper No. CB(2)1352/04-05(02)).	
001635 - 002200	蘇屋邨居民協會	Presentation of views (LC Paper No. CB(2)1352/04-05(03)).	
002201 - 002547	Liaison Sub-committee, the Chinese General Chamber of Commerce	Presentation of views (LC Paper No. CB(2)1348/04-05(01)).	
002548 - 002757	Kowloon Federation of Associations	Presentation of views (LC Paper No. CB(2)1372/04-05(01)).	
002758 - 003100	New Century Society Ltd	Presentation of views (LC Paper No. CB(2)1352/04-05(04)).	
003101 - 003421	Sha Tin Youth Association	Presentation of views (LC Paper No. CB(2)1372/04-05(04)).	
003422 - 003457	Mr Martin LEE	Clarification on a remark made by Sha Tin Youth Association.	
003458 - 003747	Hong Kong Federation of Students	Presentation of views (LC Paper No. CB(2)1352/04-05(05) and (06)).	
003748 - 004407	Hong Kong University Students' Union	Presentation of views.	
004408 - 004710	The Hong Kong Polytechnic University Students' Union	Presentation of views.	

Time Marker	Speaker(s)	Subject(s)	Action required
004711 - 004918	The Student Union of the Hong Kong Shue Yan College	Presentation of views (LC Paper No. CB(2)1352/04-05(07)).	
004919 - 005650	Hong Kong Youth Association	Presentation of views (LC Paper No. CB(2)1372/04-05(05)).	
005651 - 005942	Federation of Hong Kong Kowloon New Territories Hawker Associations	Presentation of views (LC Paper No. CB(2)1352/04-05(08)).	
005943 - 010349	YUA Current Affairs Society	Presentation of views (LC Paper No. CB(2)1352/04-05(09)).	
010350 - 010620	Kowloon Women's Organisations Federation	Presentation of views (LC Paper No. CB(2)1372/04-05(02)).	
010621 - 011125	Chairman Dr Philip WONG The Democratic Party	The number of deputations in support of a five-year term versus those in support of a two-year term. Impact of the interpretation by the Standing Committee of National People's Congress (NPCSC) on overseas investment in Hong Kong (paragraph 43 of LC Paper No. CB(2)1352/04-05(01)).	
011126 - 011727	Chairman Ms Emily LAU Hong Kong University Students' Union New Century Society Ltd	Mainstream views held by students of tertiary institutions i.e. whether students supported the new CE should serve remainder of the term of his predecessor or a new five-year term. Appropriateness to make reference to US's practice where a President returned in a by-election would serve the remainder of the term of his predecessor and apply it to Hong Kong (paragraph 5 of LC Paper No. CB(2)1352/04-05(04)). Views on Hong Kong people upholding their previous belief that the term of office of a new CE should be five years.	
011728 - 012139	Chairman Dr YEUNG Sum Hong Kong Federation of Students	Views on loss of confidence of BL because of the decision of the Government of the Hong Kong Special Administrative Region (HKSARG) to request NPCSC to make an interpretation of BL without allowing the Court of Final Appeal to refer the matter to NPCSC for an interpretation under BL 158.	
012140 - 012538	Chairman Mr WONG Ting-kwong	Remarks made by Mr Qiao Xiaoyang, Deputy Secretary of NPCSC, that the need to give an interpretation of BL53(2) to	

Time Marker	Speaker(s)	Subject(s)	Action required
	The Democratic Party Ms Margaret NG	enable the election for the new CE to be held on 10 July 2005 was above all other considerations.	
012539 - 013648	Chairman Ms Margaret NG 蘇屋邨居民協會	Appropriateness to make reference to three court cases involving UK and the European Union where statutory interpretation of the latter overrode that of its member states and to imply that it was proper for HKSARG to request NPCSC for an interpretation (paragraph 10 of LC Paper No. CB(2)1352/04-05(03)).	
013649 - 014040	Chairman Ms Audrey EU YUA Current Affairs Society	Views on the role of Members who were also legal practitioners.	
014041 - 014950	Chairman Mr LEE Wing-tat 蘇屋邨居民協會 Dr Philip WONG	Impact of NPCSC's interpretation on overseas investment in Hong Kong. Appropriateness to make reference to three court cases involving UK and the European Union where statutory interpretation of the latter overrode that of its member states and to imply that it was proper for HKSARG to request NPCSC for an interpretation (paragraph 10 of LC Paper No. CB(2)1352/04-05(03)).	
014951 - 015917	Chairman Mr LEUNG Yiu-chung Hong Kong Youth Association Admin	Impact of the request of HKSARG for an NPCSC interpretation on "one country, two systems" and the autonomy of Hong Kong. The issue of the maximum number of years to be served by the new CE elected on 10 July 2005, i.e. seven or 12 years.	
015918 - 020709	Chairman Mr Martin LEE YUA Current Affairs Society	The number of deputations in support of a five-year term versus those in support of a two-year term and the need for university students to uphold their belief. The proper procedure to request NPCSC for an interpretation under BL 158. The position of the Democratic Party on BL53(2) regarding the term of office of CE.	
020710 - 021899	Chairman Mr Albert HO Democratic Alliance for Betterment of Hong Kong	Appropriateness for HKSARG to request NPCSC for an interpretation under BL 43 and 48(2) and not to follow the procedure provided in BL158 (paragraph 5 of LC Paper No. CB(2)1352/04-05(02)). Impact of the request of HKSARG for an NPCSC interpretation on "one country, two	

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		<p>systems”, legal system and the autonomy of Hong Kong.</p> <p>Confidence in a government versus confidence in a system regulating the government.</p>	
021900 - 022434	<p>Chairman Mr Alan LEONG New Century Society Ltd</p>	<p>Reference to the deletion of the words “— 屆” regarding the term of office of CE from earlier drafts of BL46 and BL53(2) (paragraph 4 of LC Paper No. CB(2)1352/04-05(04)).</p>	
022435 - 023111	<p>Chairman Ms Emily LAU Hong Kong Youth Association</p>	<p>Impact of the request of HKSARG for an NPCSC interpretation, NPCSC initiating an interpretation on its own, and Central People’s Government’s tacit agreement to appoint Mr Donald TSANG as the new CE on the autonomy of Hong Kong.</p>	
023112 - 023546	<p>Chairman Admin</p>	<p>Response from the Administration to the views of deputations –</p> <p>(a) it was necessary for HKSARG to request for an NPCSC interpretation;</p> <p>(b) HKSARG would act in accordance with the Basic Law and local law on matters relating to CE election;</p> <p>(c) NPCSC’s interpretation had legal standing and should be followed and respected.</p>	
023547 - 024311	<p>Chairman Admin Ms Emily LAU Mr James TIEN Ms Margaret NG Dr YEUNG Sum</p>	<p>Arrangements for future meetings.</p>	