

**立法會**  
**Legislative Council**

LC Paper No. CB(2)199/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/CA

**Panel on Constitutional Affairs**

**Minutes of meeting**  
**held on Monday, 18 October 2004 at 2:30 pm**  
**in the Chamber of the Legislative Council Building**

**Members present** : Dr Hon LUI Ming-wah, JP (Chairman)  
Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)  
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 David LI Kwok-po, GBS, JP  
Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, JP  
Hon CHAN Kam-lam, 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 Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon LAU Chin-shek, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip

Hon Frederick FUNG Kin-kee, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Hon LI Kwok-ying, MH  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Dr Hon KWOK Ka-ki  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members absent** : Hon James TIEN Pei-chun, GBS, JP  
Hon Margaret NG  
Hon Bernard CHAN, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Vincent FANG Kang, JP  
Dr Hon Joseph LEE Kok-long  
Hon MA Lik, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP

**Public officers attending** : Items II and III  
  
Mr Stephen LAM Sui-lung  
Secretary for Constitutional Affairs  
  
Mr Clement C H MAK  
Permanent Secretary for Constitutional Affairs  
  
Mr Joseph LAI Yee-tak  
Deputy Secretary for Constitutional Affairs  
  
Mr Raymond TAM Chi-yuen  
Principal Assistant Secretary for Constitutional Affairs  
  
Ms Julina CHAN Woon-yee  
Principal Assistant Secretary for Constitutional Affairs  
  
**Clerk in** : Mrs Percy MA

**attendance** Chief Council Secretary (2)3

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

Mrs Eleanor CHOW  
Senior Council Secretary (2)4

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**I. Information papers issued since last meeting**

Members noted that the following papers had been issued since the last meeting –

- (a) LC Paper No. CB(2)45/04-05 – Amendment sheets of the Guidelines on Election-related Activities in respect of the District Councils Elections; and
- (b) LC Paper No. CB(2)50/04-05 – A list of research studies relating to the portfolio of the Panel conducted by the Research and Library Services Division of the Legislative Council (LegCo) Secretariat since the 1999-2000 session.

**II. Items for discussion at the next meeting**

(LC Paper No. CB(2)49/04-05(01) - List of outstanding items for discussion)

Timetable for discussing the 10 outstanding items

2. Some members expressed dissatisfaction at the lack of progress on a large number of items on the “List of outstanding items for discussion” and the failure of the Administration to provide a definite timetable for discussion. Ms Emily LAU suggested that the Chairman and Deputy Chairman should work out with the Administration a time schedule for discussion of the outstanding items after the meeting.

3. Secretary for Constitutional Affairs (SCA) said that the Constitutional Affairs Bureau (CAB) had to set priorities for its work. Of the items on the outstanding list, the Administration envisaged that there would be on-going discussion with the Panel on “Review of constitutional development after 2007”. As for the review of District Councils, SCA said that it would be more appropriate to commence the review after the incumbent District Councils had operated for a period of time, and after the review of the electoral systems for 2007 and 2008 had reached an advanced stage. As regards the “Mechanism for amending the Basic

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Law”, this was an issue requiring discussion with the Central Authorities. Some of the remaining items were proposed by the Panel, and others were handled by other bureaux and departments. SCA said that CAB would revert to the Panel on those items under its purview once it was in a position to do so.

Review on constitutional development after 2007

4. SCA said that the item could continue to be discussed at the next meeting. The consultation exercise on the Third Report of the Constitutional Development Task Force (the Task Force) had just ended. The Task Force would issue a Fourth Report in November/December 2004.

5. Ms Audrey EU requested SCA to provide at the next meeting a timetable on the review on constitutional development after 2007, i.e. a timetable to set out the various procedural and legislative steps leading to the arrangements for the elections of the Chief Executive (CE) in 2007 and LegCo Members in 2008.

6. SCA said that he could only provide a rough time frame. The Task Force had commenced public consultation with regard to the methods for selecting CE in 2007 and for forming LegCo in 2008 (the “electoral methods”) since January 2004. Having collated views received, the Task Force would put together a range of possible options which fell within the parameters set by the Standing Committee of the National People’s Congress (NPCSC) for further consultation with the public. When a consensus had been reached, the Government of the Hong Kong Special Administrative Region (HKSAR) would propose amendments to Annexes I and II to the Basic Law in 2005. Thereafter, local legislation could be enacted in 2006 to implement the new electoral arrangements.

7. Ms Audrey EU said that despite members’ request for a concrete timetable in early 2004, the Task Force had still failed to accede to the request. She considered that the timetable should cover procedural steps such as the number of further consultation exercises to be conducted and the number of further reports to be published by the Task Force, as well as the legislative steps for amending Annexes I and II to the Basic Law and local legislation. Mr Albert HO said that given that the dates of the elections of CE and LegCo in 2007 and 2008 respectively were more or less fixed, the Task Force should have no difficulty to work out a timetable, counting backward from these two dates. Mr TONG Ka-wah concurred with the views of the two members.

8. Dr YEUNG Sum requested SCA to advise the Panel at the next meeting the legislative proposals relating to the electoral arrangements for 2007 and 2008 to be introduced by the Administration in the coming two years. Dr YEUNG pointed out that some of the existing legislative provisions might need to be reviewed and amended, e.g. the statutory requirement for an elected CE who belonged to a political party to resign from the political party.

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Admin 9. SCA explained that the proposals to be put forward by the Task Force on the electoral arrangements for 2007 and 2008 would be subject to public consultation, and the duration of the consultation process could vary. In addition, it was necessary for a consensus to emerge within the community before the Administration could proceed with the legislative work. Much would depend on the complexity of specific proposals to be put forth and the responses on the part of LegCo Members and the wider community. Hence, there was practical difficulty for the Task Force in providing a detailed and firm timetable at this stage. Nevertheless, he would consider providing members with the essential steps involved in the process.

10. Mr LEUNG Kwok-hung expressed dissatisfaction at SCA's responses. He said that it was irresponsible of SCA, a principal official under the accountability system, not to provide a timetable on this important issue which was under his policy portfolio.

Admin 11. Dr Fernando CHEUNG, Mr CHEUNG Man-kwong, Mr Alan LEONG and Miss CHAN Yuen-han urged SCA to provide a timetable at the next meeting. SCA said that he would consider members' request. He would also reflect members' views to the Task Force.

12. Mr Albert CHAN said that since SCA could not provide a timetable as requested by members, he proposed that the Panel should consider inviting the representatives of NPCSC to discuss issues relating to constitutional development with members of the Panel. Dr KWOK Ka-ki said that given SCA's responses were "beating about the bush", he could understand why Mr CHAN had proposed to invite representatives of NPCSC to a Panel meeting, albeit such a proposal would violate the principle of "One Country, Two Systems".

13. On whether the Panel was empowered to invite representatives of NPCSC to attend a Panel meeting, Senior Assistant Legal Adviser 2 (SALA2) advised members that there was no provision in the Basic Law or the Rules of Procedure prohibiting the Panel from inviting any persons to a Panel meeting. It was for the persons concerned to consider whether to accept the invitation. The Deputy Chairman suggested and members agreed that Mr CHAN's proposal be dealt with at the next meeting.

Review on the conduct of the 2004 Legislative Council election

14. SCA said that the item could be discussed at the next meeting, as the Electoral Affairs Commission would submit an interim report to CE in early November 2004 to give an account of the progress of investigation and their findings.

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Letter dated 15 October 2004 from 25 pan-democratic Members to the Chairman (LC Paper No. CB(2)55/04-05(01))

15. Referring to the letter dated 15 October 2004 from the 25 pan-democratic Members to the Chairman proposing a number of issues for discussion by the Panel at future meetings, Mr LEE Wing-tat and Ms Emily LAU said that the Panel should prioritise these issues and work out a timetable for discussion. If necessary, the Panel should hold special meetings and invite deputations to give views. Members agreed that the letter be discussed at the next meeting.

Political party law

16. Referring to this item on the outstanding list, Ms Miriam LAU said that as the Administration did not consider it necessary to introduce a political party law in Hong Kong, it would not initiate discussion with the Panel. The Panel should decide on its own accord when to discuss this item. Ms Emily LAU said that since the introduction of a political party law was one of the issues mentioned in the letter from the 25 pan-democratic Members, it could be dealt with at a meeting in the near future.

17. Mr LEE Wing-tat asked SCA to indicate the Administration's stance on the issue. SCA responded that there were different means to encourage interested parties to participate actively in the political scene, and enacting a political party law was not the only means for achieving that objective. In the 2004 LegCo election, the Administration introduced additional provisions within the existing legal framework to provide partial financial support to candidates and to allow the printing of the names and emblems of candidates' parties or the candidates' photographs on the ballot paper. Should there be a political party law, political parties would be required to provide information on their financial position and source of financial support. In this connection, imposing statutory controls on the operation of political parties might not be conducive to allowing them room to develop. It was inopportune to introduce a political party law to regulate the operation of political parties at this stage. SCA further said that the Administration was fully aware that the development of political parties would have an important bearing on the constitutional development in Hong Kong. The Administration would listen to the views of members should the Panel decide to discuss the issue.

18. Ms Emily LAU said that it would be helpful if local commentaries and publications relating to the development and regulatory framework of political parties in Hong Kong could be provided for the Panel's reference. The Chairman said that the Research and Library Division of the LegCo Secretariat would be requested to assist in the matter.

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**III. Review on constitutional development after 2007**

(LC Paper No. CB(2)35/04-05 – The First Report, Second Report and Third Report of the Constitutional Development Task Force, The Report by the Chief Executive to the Standing Committee of the National People's Congress on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008

LC Paper No. CB(2)35/04-05(01) – Gazette copy of the Interpretation adopted by the Standing Committee of the National People's Congress on 6 April 2004

LC Paper No. CB(2)35/04-05(02) – Gazette copy of the Decision adopted by the Standing Committee of the National People's Congress on 26 April 2004

LC Paper No. CB(2)49/04-05(02) – Background brief prepared by LegCo Secretariat on "Review on constitutional development after 2007"

LC Paper No. CB(2)51/04-05(01) – Paper provided by the Administration

LC Paper No. CB(2)57/04-05(01) – A set of the summaries of the 12 discussion sessions held on the Third Report of the Task Force between May and August 2004)

19. SCA apologized on behalf of the Chief Secretary for Administration (CS) that the latter could not attend the meeting as he had other commitments.

Progress of the work of the Task Force

20. SCA briefed members on the progress of work of the Task Force. He said that the specific areas which might be considered for amendment in respect of the "electoral methods" were set out in the Third Report of the Task Force. The public consultation on the Third Report had just ended on 15 October 2004. The number of written submissions so far received was over 470, of which more than 110 submissions were from organizations. Some more submissions were expected to be on the way and the Task Force would keep the Panel updated on the figures.

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21. SCA said that in order to encourage different sectors of the community to discuss the issues set out in the Third Report in a more in-depth manner, 12 discussion sessions were held between May and August 2004, comprising two seminars, four regional forums, and six focus groups. They were attended by a total of over 870 participants from different sectors of society.

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22. SCA further said that the Task Force had yet to analyze the views collected but some preliminary observations had been made –

- (a) on the selection of CE, there were many views that the number of members of the Election Committee could be increased, and the size of the electorate of the Election Committee could be expanded;
- (b) on the formation of LegCo, there were some views that the number of seats should maintain at 60, but there were relatively more views that the number of seats could be increased; and
- (c) on functional constituencies (FCs), there were views that the size of the electorate could be broadened.

23. SCA said that all the submissions, except those which have requested confidentiality, would be made public. After the publication of the Fourth Report, the Task Force would continue to consult the community on changes to be made to the “electoral methods”. According to Annexes I and II to the Basic Law, any amendments to the “electoral methods” could only be implemented with the consensus of the three parties, i.e. a two-thirds majority of LegCo Members, CE and NPCSC. The aim of the Task Force was to arrive at a set of electoral arrangements for 2007 and 2008 that was feasible and acceptable to the Hong Kong community at large.

24. The Deputy Chairman asked about the differences between the Third Report and the Fourth Report and what specific questions would be included in the next round of consultation. SCA explained that the Third Report set out the specific areas which might be considered for amendment in respect of the “electoral methods” for public consultation. The Fourth Report would summarize the views collected and raise more specific issues for further discussion. There was bound to be a diversity of views on the electoral arrangements in the community. The purpose of the consultation exercise was to narrow the differences in the opinions of the various sectors. Through consultations, the more representative views would emerge and the Task Force could eventually put together more specific proposals for further discussion.

25. Mr Howard YOUNG asked whether the Administration could provide a summary of the views received on the Third Report in advance of the publication of the Fourth Report to facilitate consideration of the Panel. SCA said that the summary of views and the issues to be raised in the Fourth Report for public consultation were inter-related. The Administration did not intend to release the information in a piecemeal manner.



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Public consultation

26. Noting that some submissions from the community on the Third Report had requested confidentiality, Ms Emily LAU asked about the number of such requests and the identity of these individuals and organizations. As some individuals and organizations that put in submissions had requested meetings with the Task Force, Ms LAU also asked whether their submissions would be made public.

27. SCA said that the submissions from individuals and organizations who requested meeting with the Task Force would be made public unless they had requested otherwise. There were about ten requests for confidentiality and it would be inappropriate for the Administration to disclose the identity and background of those who had made such a request.

28. Ms Emily LAU said that in the letter to CE, the 25 pan-democratic Members had raised a number of issues for consultation with the public. She asked whether the Administration would consider organizing large scale constitutional conventions for the public to participate in the discussion of these issues.

29. SCA said that the CE Office would give a response to the letter. His preliminary response to the letter was as follows –

- (a) on the request for CE to assist in arranging a visit of the 25 pan-democratic Members to Beijing, CE had already responded during the CE's Question and Answer Session on 14 October 2004 that he would meet with the 25 Members shortly. It had been the position of the Administration to encourage political parties to have better communication with the officials of the Central Authorities. In the past few months, the Administration had made arrangements for Members belonging to different political parties and groups to meet with officials from the Central Authorities on different occasions. For instance, some LegCo Members had attended the National Day celebrations in Beijing and the military parade of the People's Liberation Army in Hong Kong. These activities helped ease the political tension, create better atmosphere for discussion and narrow differences in views on controversial issues between Members and the Central Authorities; and
- (b) as regards the demand for universal suffrage in 2007 and 2008 made by the pan-democratic Members, the Administration held the view that in examining the direction and pace of the constitutional development for Hong Kong, it must pay heed to the views of the Central Authorities. In this connection, any proposal for changes to the "electoral methods" must comply with the Basic Law and the NPCSC Decision promulgated on 26 April 2004 (the NPCSC Decision).

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30. Ms Audrey EU said that she had attended one of the discussion sessions and noted that each participant in a group was only given a couple of minutes to give views. In her view, these sessions were not meaningful. According to the summaries of the discussion sessions provided by the Task Force, different suggestions were made by the participants, including increasing the number of FCs to represent the interests of certain sectors such as fung shui masters and housewives. Ms EU enquired about the purpose of the discussion sessions and the cost involved in conducting these sessions.

31. Ms Emily LAU and Mr Albert CHENG questioned the representativeness of the 870 participants who had attended the discussion sessions. Ms LAU pointed out that the small number of participants in the discussion sessions was due to the fact that only selected sectors were invited to participate. On such an important issue as constitutional reform, she questioned why the public was not given the opportunity to participate. She urged that the consultation on the Fourth Report should be conducted in an open and transparent manner so that members of the public could participate freely in these discussion sessions if they wished to. Mr LEE Wing-tat asked whether the request of a member of the public to participate in the discussion sessions to be held on the Fourth Report would be acceded to. Mr Albert CHENG asked about the criteria for selecting participants to attend the discussion sessions and considered that the sessions should be open to the public.

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32. In response to members, SCA agreed to provide the expenses of organizing the discussion sessions for reference of the Panel. SCA said that the Task Force had commissioned the Central Policy Unit (CPU) and the Home Affairs Department (HAD) to organize a total of 12 discussion sessions on the Third Report. The purpose of the discussion sessions was to encourage different sectors of the community to discuss and exchange views on the issues set out in the Third Report. The participants selected by CPU and HAD were from different sectors including Members of the Executive Council and LegCo, members of District Councils (DC), members of Sub-committees of DC, the academia, the legal and other professional sectors, the industrial and commercial sector, community organizations, non-government organizations, education organizations, trade unions, young people and the expatriate community. Although members of the public did not participate in these discussion sessions, they could send in their submissions by email, Internet, or post. All the submissions received would be published in the Fourth Report. SCA added that the Task Force had yet to decide on the mode of consultation for the Fourth Report.

(Having considered the progress of the meeting, the Chairman sought views from members at around 4:05 pm as to whether the duration of this meeting should be extended. Members agreed that the duration of the meeting should be extended to about 6:00 pm.)

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Achieving consensus

33. Dr KWOK Ka-ki pointed out that the hundreds of thousands of people who had participated in the mass procession on 1 July 2004 generally supported universal suffrage in 2007 and 2008. However, the 870 participants of the 12 discussion sessions might have different views on the issue. In considering whether a consensus had been reached within the community, he asked how the Task Force would assess the views of these two disparate groups. He requested the Task Force to consider how to achieve a genuine consensus within the community, and not to resort to calculating ways in promoting consensus.

34. Echoing Dr Kwok's views, Mr TONG Ka-wah pointed out that the 870 participants could not represent the community at large as they just reflected the minority views of those with vested interests. It was obvious that those who supported increasing the number of FCs would not support universal suffrage. Mr TONG asked about the principles to be adopted in assessing the views collected during the discussion sessions, and the weight to be accorded to these views, pointing out that the sessions were not open to the public.

35. SCA said that the public's aspiration for universal suffrage in 2007 and 2008 had been reflected in the Second Report of the Task Force. As the NPCSC Decision had ruled out universal suffrage in 2007 and 2008, the Third Report had set out the areas that might be considered for amendment in respect of the "electoral methods". The Task Force had collected a wide spectrum of views on the issues raised in the Third Report from different channels. The Task Force would not attach more weight to certain views than others, and would include the full set of views received in the Fourth Report.

36. Mr TONG Ka-wah said that despite the NPCSC Decision, the public's aspiration for universal suffrage had not changed, as evidenced by the turnout of the mass procession on 1 July 2004. He considered that even if universal suffrage could not be achieved in 2007 and 2008, the number of FCs should not be increased because this would only impede democratic development in HKSAR. Mr TONG said that he would not, for example, support adding new FCs for fung shui masters and housewives.

37. SCA said that the Task Force had to listen to views from different sectors of society, collate them and draw up proposals for the consideration of the public. Although some of the views received were not part of the mainstream, they could not simply be ignored.

38. Dr YEUNG Sum asked how the Task Force would assess the views collected and draw up final proposals for further consultation. SCA said that after the publication of the Fourth Report, the Task Force would commence consultation with political parties and different sectors of the community so that common

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ground could be reached for drawing up a proposal that was acceptable to the community at large. Unless a consensus had been reached, the Task Force would not be able to come up with a final proposal.

39. Mr CHEUNG Man-kwong asked whether the Administration would conduct a referendum to gauge the views of the community on the electoral arrangements for 2007 and 2008.

40. SCA responded that the Administration had no plan to conduct a referendum on the matter. In his view, the requirement for any amendments to the “electoral methods” to obtain the support of a two-thirds majority of LegCo Members could ensure that such amendments would reflect the views of the community of Hong Kong.

41. Mr CHEUNG Man-kwong said that in view of the undemocratic composition of LegCo, any proposals supported by LegCo did not necessarily represent the views of the community at large. In his view, conducting a referendum was the best way to gauge whether a proposal was widely accepted by the community. Mr LEUNG Yiu-chung said that the 25 pan-democratic Members, which represented over 40% of LegCo Members, would only support universal suffrage in 2007 and 2008. He questioned how a consensus could be achieved if universal suffrage was not one of the options for public consultation. He asked how the Task Force could convince Members that any consensus reached would represent the views of the community at large. Mr LEUNG Kwok-hung pointed out that the NPCSC Decision could be amended if so required. He urged the Task Force to reflect the request of the community for universal suffrage in 2007 and 2008 to NPCSC.

42. In response to Dr KWOK Ka-ki, SALA2 advised members that the Basic Law was silent on whether a referendum could be held on constitutional reform proposals. However, a referendum could not replace the mechanism for amending the “electoral methods” set out in Annexes I and II to the Basic Law.

43. Mr LEE Cheuk-yan said that the tragic situation now facing the people of Hong Kong was that the NPCSC Decision had ruled out universal suffrage in 2007 and 2008 which was supported by the community at large. Given that the NPCSC Decision to maintain the ratio of 50/50 for Members returned by FCs and Members returned by geographical constituencies (GCs) for the fourth term LegCo would not accord with the principle of gradual and orderly progress in achieving the ultimate goal of universal suffrage, Mr LEE said that it might be more appropriate for the Task Force to explore means to convince NPCSC to reverse its decision. The consultation exercise conducted by the Task Force was meaningless if the public’s concern could not be addressed. Mr LEE further said that CE and members of the Task Force should be held accountable for stalling democratic development in Hong Kong.

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44. SCA reiterated that the Administration would not conduct a referendum on the matter. SCA said that under the Basic Law, any amendments to the “electoral methods” were required to obtain the support of a two-thirds majority of LegCo Members. The requirement would ensure that the amendment could only be passed after obtaining the support of different sectors of the community as represented by Members returned by both FCs and GCs. It also put into practice the principle of balanced participation.

45. SCA added that while there was a lack of consensus in the community as to whether universal suffrage in 2007 and 2008 should be implemented, the broad consensus was that the two “electoral methods” should be amended. The “electoral methods” were now open up for amendments as a step towards the ultimate aim of universal suffrage. The approach adopted by the Task Force was to conduct a series of consultation to collect views from different sectors in the community and put up proposals to narrow the differences in opinions among the parties concerned. Various sectors of the community would also need to adopt a pragmatic and forward-looking attitude. Discussion on the relevant issues should be held in a rational and receptive manner so as to achieve broad consensus within the community on a proposal that would serve the best interests of the people of Hong Kong as a whole. SCA stressed that a consensus on the electoral arrangements for 2007 and 2008 could only be achieved by the concerted effort of the parties concerned.

46. Mr LEE Cheuk-yan queried why NPCSC had also made a decision on the procedures for voting on bills and motions in LegCo on 26 April 2004. SCA explained that since NPCSC had decided that the 50/50 ratio for Members returned by FCs and GCs should remain unchanged for the fourth term LegCo, it was necessary for NPCSC to also clarify that the procedures for Members to vote on bills and motions in LegCo would also remain unchanged.

Motion proposed by Dr Hon Fernando CHEUNG

47. At about 5:20 pm, Dr Fernando CHEUNG said that judging from the discussion held earlier by the Panel, both the Task Force and members of the Panel agreed that any proposal on the electoral arrangements for 2007 and 2008 should have the consensus and support of the community at large. In this connection, he proposed the following motion -

“鑒於特區的政制改革應獲得廣大香港市民的共識和支持，本會要求政府應就 2007/2008 年政改方案盡快進行全民公投，而公投之方案中應包括全民直選。”

48. In response to the Chairman, SCA reiterated his earlier advice that the Administration had no plan to hold a referendum on the matter. Any amendments

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introduced by the HKSAR Government to the “electoral methods” would need to comply with the Basic Law and the NPCSC Decision.

49. The Chairman asked whether members wished to discuss the motion proposed by Dr CHEUNG as the meeting had passed the scheduled ending time, i.e. 4:30 pm. Mr LEE Cheuk-yan and Dr YEUNG Sum said that as members had earlier agreed that the duration of the meeting would be extended, it was in order for the Panel to deal with Dr CHEUNG’s motion.

50. In response to the Chairman, SALA2 advised members that there was no specific provision in the Rules of Procedure or the House Rules governing the moving of a motion by a member after the scheduled ending time of a meeting. Members could exercise discretion as to whether the motion should be dealt with immediately or later at the same meeting, or be deferred to the next meeting, taking into account the urgency of the subject matter, fairness to members who had already left the meeting, and other considerations. SALA2 also pointed out that on a previous occasion, some members of this Panel had raised queries as to whether the moving of a motion after the scheduled ending time of a meeting was appropriate as some members had already left the meeting.

51. Mr TAM Yiu-chung said that NPCSC had already made a decision on the electoral arrangements for 2007 and 2008 and the procedures for amending the “electoral methods” were set out in the Basic Law. The motion proposed by Dr CHEUNG to conduct a referendum would contravene the Basic Law. In his view, members should be allowed sufficient time to debate such an important motion which should not be voted on in a rush. His view was echoed by Mr Howard YOUNG who suggested that the motion be dealt with at the next meeting.

52. Mr TONG Ka-wah said that conducting a referendum to gauge the public’s views on the electoral arrangements for 2007 and 2008 did not contravene the Basic Law or override the NPCSC Decision.

53. Mr LAU Kong-wah said that a motion on an important issue should preferably be moved with advance notice to allow thorough discussion by members. If a motion was moved without notice, members of the Panel should at least be allowed to study the wording of the motion, to consider amendments to the motion if any, and to debate the motion before a vote was taken. He asked Dr CHEUNG whether there was any urgency to debate and vote on his motion at this meeting.

54. Dr CHEUNG said that members had discussed the relevant issues for over one hour at the meeting. He considered that the motion was urgent and should be voted on at this meeting.

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55. The Deputy Chairman said that in accordance with rule 22(p) of the House Rules, the Chairman had to rule whether the motion proposed was directly related to the agenda item of the meeting. The motion would be proceeded with if agreed by a majority of the members voting. After debate, the motion should be put to vote if there were dissenting views. Hence, it was necessary for the Chairman to first give a ruling on the relevancy of the motion to the agenda item. The Chairman ruled that the motion was relevant to the agenda item under discussion.

56. Dr YEUNG Sum proposed that Dr CHEUNG's motion should be put to vote. SALA2 advised members that the wording of the motion should be tabled at the meeting to facilitate members' debate, the moving of amendments if any, and voting. The Chairman advised members that in accordance with rule 22(p) of the House Rules, any proposed motion or amendment to a motion should be presented to the Panel in written form. The Chairman instructed the Secretariat to arrange for the wording of Dr CHEUNG's motion to be copied to members.

57. Mr CHEUNG Man-kwong said that unless specifically requested by members, motions moved at Panel meetings were normally voted on without the need for the wording of the motion to be tabled at the meeting. The advice of SALA2 had departed from the normal practice. Mr Albert CHENG questioned the neutrality of SALA2 and expressed regret at his giving the advice at an inappropriate time. He said that the advice, if considered necessary, should have been given immediately after Mr CHEUNG presented his motion in written form to the Chairman.

58. Mr TAM Yiu-chung said that tabling of the wording of the motion was reasonable given the importance of the motion. Mr LAU Kong-wah considered SALA's advice appropriate as he had earlier suggested that members should study the wording of the motion before debate.

59. SALA2 said that different Panels might have different practices. His earlier advice had taken into account a number of considerations. In view of the large membership of the Panel, the content and the relatively long wording of the motion, it might be more appropriate for the wording of the motion to be copied to members to facilitate their consideration of amendments and debate.

60. Mr LEE Cheuk-yan said that the way the Chairman had handled the motion was regrettable. He criticised the Chairman for employing delaying tactic in the process until Members of the pro-government camp had returned to the Chamber to vote. Given the way the Chairman had conducted the meeting, Dr YEUNG Sum asked the Chairman to reconsider whether he should remain in the chair. The Chairman responded that he had only followed the established procedures in dealing with the motion.

Action

61. The Chairman invited members to give views as to whether to proceed with the motion. Mr LEE Cheuk-yan moved a motion calling for the Panel to adjourn the discussion on Dr CHEUNG's motion. The majority of the members supported Mr LEE's motion. The Chairman concluded that Dr CHEUNG's motion would be dealt with at the next meeting.

*(Post meeting note : The wording of Dr CHEUNG's motion tabled at the meeting was circulated to members vide LC Paper No. CB(2)69/04-05 on 20 October 2004.)*

**IV. Review of the conduct of the 2004 Legislative Council election**  
(LC Paper No. CB(2)49/04-05(03) – Transcript of remarks by Electoral Affairs Commission Chairman at a press briefing on 15 September 2004 on polling arrangements for the 2004 LegCo election

LC Paper No. CB(2)52/04-05(01) – Paper provided by the Administration)

62. Members agreed that the item be deferred for discussion at the next meeting.

63. The meeting ended at 6:02 pm.