

立法會
Legislative Council

LC Paper No. CB(2) 863/04-05
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

Minutes of meeting
held on Thursday, 13 January 2005 at 4:30 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 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 David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, 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 Timothy FOK Tsun-ting, GBS, JP

Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, 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
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon MA Lik, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
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 Tommy CHEUNG Yu-yan, JP
Hon LEUNG Kwok-hung

Public officers attending : Item IV

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Acting Permanent 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

Item V

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Acting Permanent Secretary for Constitutional Affairs

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

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

Mrs Eleanor CHOW
Senior Council Secretary (2)4

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I. Confirmation of minutes of meetings

(LC Paper No. CB(2)588/04-05 – Minutes of special meeting on 29 November 2004)

The minutes of the meeting held on 29 November 2004 were confirmed.

II. Information papers issued since the last meeting

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

- (a) LC Paper No. CB(2)506/04-05(01) – Letter dated 23 December 2004 from the Administration in response to the information requested by Hon Margaret NG concerning the number of "tendered" ballot papers issued in the 2000 and 2004 LegCo elections; and
- (b) LC Paper No. CB(2)657/04-05 – Legislative timetable for the 2002 Chief Executive election.

III. Items for discussion at the next meeting

(LC Paper No. CB(2)607/04-05(01) – List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next meeting to be held on 21 February 2005 –

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- (a) Constitutional issues relating to prorogation of the Council; and
- (b) Political party law (paragraph 49 below refers).

4. Ms Emily LAU suggested that the incident of Taipei Mayor MA Ying-jeou being refused a visa to enter into Hong Kong should be discussed at the next meeting of the Panel on Constitutional Affairs (CA Panel) or a joint meeting with the Panel on Security. Mr Philip WONG said that the fact that Immigration authorities had the discretionary power to refuse visa applications and not to disclose the reasons for the refusal was not unique to Hong Kong. He queried the need to conduct a meeting to discuss the matter. Some members considered that as the decision not to grant a visit visa for Mayor MA was unusual, political in nature and had aroused public concern, the Administration should give an explanation to the public.

5. Members discussed the appropriate forum for the matter to be discussed. Mr James TO, Chairman of the Security Panel, informed members that arrangements were being made for the Panel on Security to discuss the matter. The Secretary for Security (S for S) had agreed to attend the meeting and would liaise with other relevant bureaux about the Administration's attendance at the meeting. Ms Emily LAU pointed out that as the Constitutional Affairs Bureau (CAB) was responsible for handling issues relating to Taiwan, it was appropriate for the CA Panel to discuss the matter. A few members belonging to the Democratic Party said that when they requested to meet with the Chief Executive (CE) on the matter, CE had arranged for the Secretary for Constitutional Affairs (SCA), and not S for S, to receive them. It was obvious that SCA was the responsible official. These members considered that the matter should be discussed by the CA Panel or jointly with the Panel on Security, and both SCA and S for S should be invited to attend the meeting. Some other members held the view that the Panel on Security should hold a meeting and invite members of the CA Panel to attend, given that matters in respect of applications for visit visas fell under the policy portfolio of the Security Bureau.

6. SCA said that CAB was responsible for coordinating issues relating to Taiwan. However, immigration policy in respect of applications for visit visas was a matter for the Security Bureau. SCA further said that it might be more appropriate for the Panel on Security to hold a meeting and invite members of the CA Panel to attend. He indicated that he would attend the meeting should members consider his attendance necessary.

7. The Chairman put the following two options to vote –

- (a) the Panel on Security to hold a meeting and invite members of the CA Panel to attend; and
- (b) the CA Panel to hold a meeting and invite members of the Panel on Security to attend.

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8. The Chairman declared that the majority of the members present at the meeting voted in favour of option (a).

(Post-meeting note : The issue of “Immigration policy and procedures in respect of applications for visit visas/entry permits” has been scheduled for discussion at the meeting of the Panel on Security on 1 February 2005. All LegCo Members have been invited to attend the meeting.)

IV. Motion proposed by Dr Hon KWOK Ka-ki

(LC Paper No. CB(2)607/04-05(02) – Wording of the motion proposed by Dr Hon KWOK Ka-ki)

9. The Chairman said that members had agreed at the last meeting that the motion proposed by Dr Hon KWOK Ka-ki be dealt with at this meeting. The wording of the motion was as follows –

“就政制發展專責小組第四號報告的諮詢，本會要求當局應進行廣泛而深入的民意調查；小組亦應把報告內的具體建議，諮詢全港市民意見，而其中應包括訂立普選時間表。”

(Translation)

“That, regarding the consultation on the Fourth Report of the Constitutional Development Task Force, this Panel requests that the Administration should carry out an extensive and in-depth opinion poll; the Task Force should also consult all people of Hong Kong on the specific proposals set out in the Report, including setting a timetable for universal suffrage.”

10. Dr KWOK explained the reasons for moving the motion. A copy of Dr KWOK’s speech is in **Appendix I**. Dr KWOK urged members to vote in support of his motion.

11. Mr Howard YOUNG said that constitutional development was an important issue and would be widely debated in the Council in the coming months. The Liberal Party considered that constitutional development must progress in a gradual and orderly manner, and any proposals to amend the methods for selecting CE in 2007 and for forming the Legislative Council (LegCo) in 2008 (the “electoral methods”) must comply with the Basic Law and the parameters set in the decision of the Standing Committee of the National People’s Congress on 26 April 2004 (the NPCSC Decision). The Liberal Party intended to consult its members who represented different sectors in the community on the Fourth Report. The result of the consultation would be submitted to the Task Force before expiry of the consultation on the Fourth

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Report on 31 March 2005. The Liberal Party did not see any strong need for the Administration to conduct an opinion poll at this stage and would not support the motion.

12. Dr YEUNG Sum said that Members belonging to the Democratic Party supported the motion. He pointed out that the motion also sought to consult the people of Hong Kong on the specific proposals set out in the Fourth Report. This would provide an opportunity for the Administration to ascertain whether its mainstream proposal would be accepted by the community.

13. At the invitation of the Chairman, SCA said that Dr KWOK's motion consisted of two parts. The first part called for the conduct of an opinion poll on the Fourth Report of the Task Force on Constitutional Development (the Task Force), and the second part called for the Task Force to consult the public on the specific proposals for amending the "electoral methods" and a timetable for universal suffrage. On the conduct of an opinion poll, SCA said that the Chief Secretary for Administration (CS) had made clear the stance of the Administration at the Council meeting on 15 December 2004 that it would not rule out the possibility of conducting an opinion poll on the package of proposals for the "electoral methods". SCA further said that there were different avenues to collect views from the public and an opinion poll was only one of the means. The Task Force would organize seminars and forums to collect further views from different sectors of the community on the issues set out in the Fourth Report. He had been attending meetings of District Councils (DCs) to listen to views of district representatives. The public could also put forth their views to the Task Force by post, facsimile, e-mail or through the website.

14. As regards the second part of the motion, SCA explained that the Fourth Report summarized the spectrum of views on how the "electoral methods" could be amended but had not provided any specific proposals on the "electoral methods". At this stage, the Task Force did not have a mainstream proposal for public consultation. On the timetable for implementing universal suffrage, SCA said that the priority task of the Task Force was to formulate a package of proposals for amending the "electoral methods" in accordance with the NPCSC Decision, although it would continue to listen to public views concerning the timetable for universal suffrage and reflect these views to the Central Authorities.

15. SCA further said that in general, he did not share the views of Dr KWOK. He made the following points –

- (a) The Administration had not formed any view on universal suffrage. He and the Secretary for Justice (SJ) had on different occasions explained that universal suffrage could take the form of direct or indirect elections. Some members of the public including Mr Eric LI Ka-cheung, a former LegCo Member, had suggested that one of

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the models for universal suffrage could be for candidates to be nominated by functional constituencies (FCs) or professional organizations and elected by all registered electors. The Administration would consider this view and other views received on this issue;

- (b) As pointed out by Dr KWOK, the International Covenant on Civil and Political Rights was applied to Hong Kong with certain reservations. One of the reservations was that the Government reserved the right not to apply Article 25 of the Covenant in so far as the establishment of an elected Executive or Legislative Council in Hong Kong was concerned. In taking forward constitutional development, the Administration followed the Basic Law which set out the blueprint in the first ten years after reunification. The Administration would ensure that any proposals to amend the “electoral methods” would comply with the Basic Law and the NPCSC Decision. Constitutional changes that had been or would be implemented in Hong Kong would not be inconsistent with international covenants or domestic law as applied to Hong Kong; and
- (c) The views of the 870 respondents who had given views during consultation on the Third Report could not be taken lightly, as they represented the views of different sectors, including Members of ExCo and LegCo, members of DCs, the academia, the legal and other professional sectors, young people, ethnic minorities, etc. The Task Force would conduct wider consultation on the Fourth Report with a view to enhancing participation at the district level. The Task Force welcomed LegCo Members, political parties and groups to put forward practical proposals in the coming months.

16. Dr KWOK said that he was disappointed at SCA’s reply. He considered that an opinion poll would provide an opportunity for the Administration to directly consult the public, the result of which would help the Administration improve its governance and communication with the people. In his motion, he did not lay down any restrictions on the methods in conducting an opinion poll or its scope. All he asked was a fair and credible opinion poll which was up to the international standard. He said that the Administration should not be apprehensive about facing the public. If the Administration did not give the public an opportunity to express views, it would only drive them to take radical actions and move further away from the Government. Dr KWOK further said that as implementation of universal suffrage was an ultimate goal laid down in the Basic Law, the Administration must address the question of the timetable for universal suffrage. He urged members to support his motion.

17. The Chairman put the motion to vote. Dr KWOK claimed a division.

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19 members voted for the motion

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Alan LEONG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Ronny TONG, Mr Albert CHENG and Miss TAM Heung-man.

28 members voted against the motion

Mr James TIEN, Dr LUI Ming-wah, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LI Kwok-ying, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU and Mr KWONG Chi-kin.

18. The Chairman declared that the motion was negated.

V. Briefing by the Secretary for Constitutional Affairs on the Chief Executive's Policy Address 2005

(Address made by the Chief Executive at the Council meeting on 12 January 2005)

2005 Policy Agenda

LC Paper No. CB(2)646/04-05(01) - Paper provided by the Administration on "2005 Policy Agenda")

19. SCA briefed members on the initiatives of CAB set out in the CE's Policy Address 2005. A copy of his speaking note is in **Appendix II**.

Issues raised by members

Constitutional development

20. Mr Ronny TONG said that CE had already set out in his 1999 Policy Address that one of the initiatives was to actively pursue democratic development for Hong Kong. However, the Administration had adopted a "couldn't-care-less" attitude towards public's aspirations for universal suffrage in conducting public consultation on constitutional development. It had chosen to listen to views from selected sectors which concurred with the Administration's stance. Mr TONG said that the Administration not only had

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the responsibility to listen to all the views expressed by the public, but also to promote public discussions in the community on constitutional development. Even though universal suffrage could not be achieved in 2007 and 2008, the Task Force should formulate a proposal which was most conducive towards achieving the ultimate goal of universal suffrage.

21. SCA said that the Administration had all along been adopting a serious, prudent and active approach to take forward constitutional development for Hong Kong. In conducting public consultation, the Task Force had listened to all the views expressed and reflected them in the reports published by the Task Force. He was aware of pan-democratic Members' support for universal suffrage in the 2007 and 2008 elections. There were, however, organisations and individuals who had expressed different views. The Administration remained of the view that the proposal to be put forth on the "electoral methods" must comply with the Basic Law and the parameters set in the NPCSC Decision. The Task Force would continue to listen to views from the public in its current round of consultation. In considering amendments to "electoral methods", the Task Force would work towards a package of proposals which provided wider public participation and representation. He hoped that the package of proposals to be put forth for the 2007 and 2008 elections would serve as a transition to achieving universal suffrage.

22. Mr Albert HO said that CE's Policy Address had made no reference to the accountability system for principal officials (POs) such as whether there were any problems with the operation of the system and how POs were accountable to the public. The way CE had handled past cases of resignation of POs and the recent case of Mr LAM Woon-kwong had caused confusion to the public. Mr HO also expressed concern about the executive and legislature relationship. He asked how the Administration would respond to the motions moved by Members and passed by the Council, such as the motions on "Implementing small class teaching" and "Development of the West Kowloon Cultural District". He said that the executive and legislature relationship could not be improved if the Administration did not respect the consensus of the Council.

23. SCA said that the design of the accountability system was to allow a team of politically appointed top Government officials to assist CE in his work. The executive was accountable to LegCo and the public. In his personal view, the implementation of the accountability system was a right step in political development. SCA further said that when a major political incident occurred, there were bound to be different views as to whether the PO concerned should remain in office, step down, or tender an apology to the public. He pointed out that with implementation of the accountability system, POs had acted as a "firewall" and would accept full responsibility for serious political blunders. This would allow civil servants to remain politically neutral.

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24. SCA said that the concerted effort of the executive and the legislature was required to improve the relationship between the two institutions. As a bid to improve the communication between the executive and legislature, LegCo Members from some major political parties had been appointed onto ExCo, following implementation of the accountability system. The Administration would continue to explore ways on how to better enhance cooperation between the executive and the legislature.

25. Mr Albert HO referred to the strong criticism made by CE in paragraph 18 of the Policy Address which stated that “We also lacked a sense of crisis, political sensitivity as well as the necessary experience and capability to cope with political and economic changes”. He asked whether these inadequacies arose as a result of an ineffective political system including ExCo, LegCo and the accountability system for POs.

26. SCA responded that all major policy decisions were made collectively by ExCo. The political system of Hong Kong, including ExCo, LegCo and the relationship between the executive and legislature, had been evolving. It was necessary for the Administration to make reflections from time to time on whether the changes were appropriate. Implementation of the accountability system for POs and further democratisation of the electoral system were some of the improvements made to the political system, and continuous improvements were necessary to perfect the system.

27. Dr YEUNG Sum and Mr Martin LEE said that paragraph 19 of CE’s Policy Address stated that “After much soul searching and a review of the successes and failures of our governance, my colleagues and I have taken stock of experience gained and lessons learnt”. They asked what lessons had SCA learnt on the issue of constitutional development.

28. SCA said that in terms of constitutional development, his biggest challenge was to achieve consensus on a proposal on the “electoral methods” within the community. Since the promulgation of the Basic Law in 1990, it was the first time that Hong Kong faced such an important issue. Given that this was unprecedented, he was exploring ways to formulate a proposal that would incorporate public views, strengthen democratisation, and at the same time pave the way for constitutional development in Hong Kong. He would make the best endeavour to achieve tripartite consensus (two-thirds majority of all LegCo Members, CE and NPCSC) and cooperation from four parties (LegCo Members returned by FC and geographical constituencies, CE and NPCSC).

29. Dr YEUNG Sum said that the Democratic Party had continued to pursue universal suffrage for the elections in 2007 and 2008 despite the NPCSC Decision. He asked whether the Democratic Party was giving our country worries and trouble.

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30. SCA said that Hong Kong was a free society and its people had the freedom of expression. He respected the views and stance of LegCo Members from different political parties and groups on the issue of constitutional development. At the same time, he hoped that Members could likewise accept and respect the constitution of the People's Republic of China, the constitutional order laid down in the Basic Law, and the NPCSC Decision in considering constitutional development. SCA stressed that both the Government and LegCo Members had the constitutional duty to come up with a proposal to amend the "electoral methods" with a view to achieving progress towards greater democracy.

31. Ms Emily LAU was dissatisfied that constitutional development was not included in the 11 most concerned issues set out in paragraph 27 of CE's Policy Address. Referring to paragraph 24 of the Policy Address which stated that the Government would "help those who still have doubts about or feel antagonistic towards the Central Government to change their minds", Ms LAU asked how the Administration intended to change the minds of dissidents and why it did not consider changing the minds of the Central Authorities so that the latter would respond to the aspirations of the people of Hong Kong for universal suffrage.

32. SCA said that the Administration attached great importance to the issue of constitutional development which was covered in paragraph 26 of CE's Policy Address. The Administration respected the views of LegCo Members. It would not attempt to change, nor was it capable of changing, the thinking of LegCo Members. The Administration, however, had the responsibility to make Hong Kong people understand the spirit and principles of the Central Government's policies towards Hong Kong. At the same time, it would reflect to the Central Government the views of Hong Kong people towards constitutional development. CAB played the role of a co-ordinator to bridge the gap among CE, LegCo and NPCSC in this respect.

33. Dr KWOK Ka-ki said that he was disappointed at CE's Policy Address in that it had failed to provide any work plan for implementing the ultimate aim of universal suffrage. He said that the Administration was "beating about the bush" in addressing the question of constitutional development.

34. SCA said that the Administration maintained the view that constitutional development should progress in a gradual and orderly manner. He reiterated that the "electoral methods" could be amended to provide for wider public participation which was a step conducive towards achieving universal suffrage. He said that how the ultimate aim of universal suffrage could be achieved was not cast in stone, it had to be explored step by step. SCA further said that the Administration had endeavoured to create an environment that would attract political talents to participate in elections and strengthen the development of political parties and groups.

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35. Mr Howard YOUNG asked about the legislative process for amending the number of members of the Election Committee and the composition of the Election Committee. SCA said that amendments to the number of members of the Election Committee in Annex I to the Basic Law must be made with the endorsement of a two-thirds majority of LegCo Members and the consent of CE, and must be reported to NPCSC for approval. Amendments which sought to expand the electorate size of the Election Committee would be made by way of local legislation. In further response to Mr YOUNG on the legislative timetable, SCA said that a consensus must emerge from the community within 2005 on the proposals to amend Annexes I and II. The Administration could then proceed with the necessary legislative process relating to amending Annexes I and II and local legislation.

Promotion of Basic Law

36. Mr CHAN Kam-lam said that the promotional activities launched on the Basic Law had been effective. He noted that the APIs (Government Announcements in the Public Interest) broadcasted before the daily evening television news had been criticised by some people as “brainwash”. He disagreed with the criticism and urged the Administration not to give up its promotional activities easily. He suggested that the Administration should take proactive steps to strengthen promotion of the Basic Law and in doing so, should associate the Basic Law with people’s daily activities.

37. SCA agreed that promotion of the Basic Law would be effective when its theme was linked to the daily activities of the people. He said that one of the APIs that had been produced was to let people know that their right to travel, enter or leave Hong Kong was safeguarded by the Basic Law. The Administration would continue to promote the Basic Law in this direction. There were also promotional activities targeted at young people. For instance, promotional materials on the Basic Law were provided to primary and secondary schools to facilitate them to educate students. Competitions had also been organized for school students to design Basic Law promotional programmes.

38. In response to Mr Martin LEE’s question, SCA said that having reviewed the work of CAB in the past year, he considered that more could have been done in promoting the Basic Law. In 2005, the Administration would put in more resources to encourage organisations to participate in the promotion of the Basic Law. It would also organize activities with a view to enhancing the community’s understanding of the Basic Law and the “One Country, Two Systems”.

Pan-Pearl River Delta Regional Cooperation

39. Mr LAU Kong-wah said that paragraphs 13 and 14 of the Administration’s paper on 2005 Policy Agenda (LC Paper No. CB(2)646/04-05(01)) mentioned that the governments of the nine Mainland

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provinces and region in the Pan-Pearl River Delta (PPRD) Region and the two Special Administrative Regions (the “9+2” governments) signed a PPRD Regional Cooperation Framework Agreement (the Agreement) in June 2004. Mr LAU asked about the cooperation projects brought about by the Agreement since June 2004 and whether the Administration would consider the proposal put forth by the Democratic Alliance for Betterment of Hong Kong (DAB) on the setting up of a secretariat to deal with issues relating to the Agreement.

40. SCA said that the Administration took note of the proposal of DAB. He said that there were two tiers in promoting regional cooperation. The first tier involved the Administration which would actively participate in PPRD and foster co-operation with the “9+2” governments based on the framework laid down by the Agreement. The second tier involved private enterprises which would set up business and enter into the markets in the Mainland. The role of CAB was to coordinate the Administration’s effort in participating in the relevant areas of cooperation. Given that the Agreement had been signed for only seven months, the Administration needed more time to identify areas of cooperation. While the Administration had a good understanding of the neighbouring Guangdong province, it was necessary to gain broader understanding of the development and policies of the respective provinces and regions farther away from Hong Kong. To this end, the Administration had launched a visit programme to the PPRD region. So far, relevant government bureaux and departments had discussed co-operation with some of the “9+2” governments in the areas of health, education and trade. Of particular significance were cross-boundary infrastructure projects such as the Hong Kong-Zhuhai-Macao Bridge. The Administration would continue to explore and expand the scope of cooperation within PPRD for mutual prosperity.

41. Mr Albert HO said that in order to understand and support the Government’s policy for PPRD regional cooperation, there was a need for LegCo Members to visit the region. He asked whether the Administration would arrange a visit programme for LegCo Members to the PPRD region, given that there was no established channel for LegCo Members to directly communicate with Mainland officials at present.

42. SCA said that he took note of Mr HO’s request. He said that at present, visit programme to PPRD region was only arranged for different government bureaux and departments and these visits focused on provinces farther away from Hong Kong. He said that he adopted a positive attitude towards enhancing the communication between political parties and officials of the Central Authorities. Where there were opportunities, the Administration would make appropriate arrangements.

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Review of roles, functions and composition of DCs

43. Referring to paragraph 21 of CE's Policy Address, Ms Miriam LAU asked how the Administration would enhance its support for DCs. She also asked about the timing for completing the review of DCs.

44. SCA said that the Administration had not formed any view on the matter. He had met with the chairmen and deputy chairmen of DCs and some DC members. Some of them had requested for more resources in assisting local residents, more power in managing district affairs, and an enhanced advisory role to the Government. The review would commence in the fourth quarter of 2005 and would be completed in 2006. To facilitate the review, a consultation document would be issued. The Administration had yet to decide on the period for consultation. Any legislative amendments to the District Council Ordinance as a result of the review would be dealt with in 2006.

Taiwan affairs

45. Referring to paragraph 19 of the 2005 Policy Address, Dr YEUNG Sum asked what lessons had SCA learnt in respect of cross-strait relationship.

46. SCA said that cross-strait relationship was a sensitive and complex issue. The Administration adopted a positive approach towards the matter and would continue to enhance exchanges with Taiwan based on the established policies and principles. Since CAB took up Taiwan affairs, he had seized every opportunity to brief Taiwan delegations on Hong Kong's position and development. The delegations received included professionals, media, industrial and business sectors, and academia.

47. Mr LEE Wing-tat said that the refusal of Mayor MA Ying-jeou's visa application had dampened the relationship between Taiwan and Hong Kong and hurt the feelings of the compatriots in Taiwan, given that Mayor MA was in support of the reunification with China. Mayor MA's application was rejected simply because he had expressed view on the anti-sedition law. Mr LEE further said that according to the official source from Taiwan, Mayor MA had applied for a visit visa together with a group of other applicants whose applications had been approved. However, S for S had said in a radio programme that Mayor MA's application had never been rejected. In his view, S for S was indirectly telling a lie. The delay in processing an application was tantamount to rejecting the application. The integrity of S for S was called into question as he did not tell all the facts. He considered that the decision to reject the visa application was wrong and inappropriate.

48. SCA said that S for S had told the truth and he could not accept Mr LEE's comment that S for S was telling a lie. He further said that the situation in Taiwan was complex. Taiwan's inclination towards independence had adversely

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affected cross-strait relationship. He firmly believed that the community in Hong Kong at large supported Taiwan's reunification with the motherland and unity of one country. SCA added that cross-strait relationship would not be affected by an isolated incident. In the longer term, the Administration would continue to promote exchanges on various fronts with Taiwan. If Mayor MA applied for a visit visa in future, the Immigration Department would consider his application on the basis of existing policy and legislation.

VI. Political party law

(LC Paper No. CB(2)607/04-05(03) - Paper provided by the Administration on "Political party law"

IN17/04-05 - Information note on "Views on Political Party Law in Hong Kong" prepared by the Research and Library Services Division of the LegCo Secretariat)

49. Mr LAU Kong-wah proposed and members agreed to defer the discussion of the item until the next meeting.

VII. Any other business

50. The Chairman reminded members that a special meeting would be held on Saturday, 15 January 2005 from 9:30 am to 1:00 pm to receive views on "Pros and cons of the existing political structure and the implications on good governance/The executive and the legislature relationship/The system and role of the civil service" from deputations.

51. The meeting ended at 6:32 pm.

2005 年 1 月 13 日立法會政制小組會議

郭家麒議員的講稿

就政改方案進行全民調查

1. 我提出此議案的論據：

- 無論中央和特區政府都要尊重《基本法》一國兩制、高度自治、港人治港的精神，保障香港享有民主政制。
- 鑒於《基本法》第四十五條訂明，行政長官最終由一個有廣泛代表的提名委員會按民主程序提名後普選產生，及第六十八條訂明立法會全部議員最終由普選產生。
- 根據聯合國《世界人權宣言》第二十一條、《公民權利和政治權利國際公約》第二十五條，均有闡明普選的基本原則。而中央政府亦同意簽署這條國際公約。既然《基本法》已定明政制發展最終要達致普選，而國際的公約亦已確立自由、普及而又平等的政治參與權利，在此情況下，第四號報告書卻仍沒有提供普選時間表。
- 國家主席胡錦濤上月公開要求特區政府對施政查找不足，我們多多少少都感到欣慰，以為特首終於作出反省，但昨日特首發表施政報告，看得出沒有就「以民為本」及民主進展等事項交功課。
- 我提出這個動議，是想向特區政府作出忠告：過去幾年特區政府就政制發展錯過很多機會，希望今次政府本著查找不足的精神，把事情做好。
- 2007 年行政長官及 2008 年立法會議員的產生辦法，對香港的長遠發展有重要意義，2003 年特區政府就基本法 23 條立法和展開諮詢的失敗之處，有目共睹，希望林局長和同事應引以為鑑。但四號報告書仍然沒有汲取當時的教訓，對於 07 及 08 雙普選的民主選舉機制，報告書並沒有交待。

- 在 12 月 20 日的政制小組的會議，大家都為梁愛詩司長對普選和功能組別選舉的說法感到震驚，因為梁司長表示功能組別的選舉可當作普選的一種。希望特區政府就此事應貫徹基本法的原則精神，和普選的語意概念，不應該隨便釋法，或者偷天換日任意更改意義。
- 我重申議案只有一個目的，無論特區政府和問責官員，希望不要繼續掩飾過去的錯誤，不要以為民意可以愚弄。香港政府可真誠地面對香港的過去和未來。既然特首已經認錯，我衷心期望就香港民主政制的發展，政府能夠有一個下台階，民意匯集有一個新開始。
- 我動議特區政府盡快進行全港民意調查，內容要具體羅列 2007 年行政長官及 2008 年立法會議員的產生辦法。第四號報告書的第 3、4 章已清楚地羅列諮詢的內容，例如第 21 頁表示需諮詢訂立推行普選的時間表，第 36 頁亦說要研究長遠取消或保留功能組別等。第四號報告書羅列了諮詢內容，若政府仍然執迷不悟，用第三號報告書諮詢時所用的小圈子的諮詢(不足 900 人的諮詢會)令人蒙羞，亦與中央要求的查找不足的精神背道而馳。這次是一個好機會，讓政府在第四號報告書可坦誠坦率地進行真正的全港市民諮詢，凝聚社會共識。政府可藉此次機會挽回面子。

2. 有兩段說話我想引述 —

- 律政司司長梁愛詩在「國際大律師公會會議《公民權利和政治權利國際公約》在世界各地實施的情況」致辭時表示，《公民權利和政治權利國際公約》自 1976 年開始生效即在香港實施。1991 年，香港制定了《香港人權法案條例》，把《公民權利和政治權利國際公約》適用於香港的條文，納入香港的本地法律。回歸以來，根據香港新的小憲法《基本法》第三十九條，《公民權利和政治權利國際公約》在香港享有特殊地位。
- 英國在 1976 年批准這條公約時，同時提出某些保留條件，其中一項是針對這公約第二十五條提出的。第二十五條規定舉行定期選舉，而選舉權必須普及而平等。因有這樣的保留，公約並不要求香港設立透過選舉產生的行政會議或立法會。這項保留條件仍然適用於香港特區，而且《香港人權法案條例》也有反映。因此，無論是臨時立法會還是特區第一屆立法會都沒有違反適用於香港的國際公約或本地法例。

- 基本法委員會委員陳弘毅先生在《關於政制檢討與諮詢的反思》一文中表示，政制諮詢可分兩個階段。第一個階段處理的是程序性的問題、遊戲規則的問題和進入第二階段的先決條件問題：例如現行政制是否有需要改革；政制檢討是否只處理在 2007 年和 2008 年實行的改革還是應處理較長遠的政制發展問題，該等問題不應漠視。至於第二階段的諮詢，如要進行的話，便是關於怎樣改革現行政制的具體方案的諮詢。第一、二階段的諮詢程序必須公正和合理，務求盡善盡美。程序的被認受性是實質結果的被認受性的必要條件。
3. 基於兩人的說話，政府有需要做一個有公信力，認受性的諮詢。請問局長，過往第三號報告書的諮詢有否公信力、認受性？區區不足 900 人參與的討論會，是否等於香港人的共識？昨天的施政綱領的第 8 頁很清楚地說明就 07 及 08 年的普選，政府期望在 2005 年年中達成共識後，工作就可展開。就共識而言，若政府仍是執迷不悟，堅持己見，以小圈子方式進行諮詢，是侮辱自己的工作及香港市民，不給予香港市民機會參與決定政制的方案。
 4. 在此我呼籲同事，無論你持什麼政治理念和背景，請支持做一個公平，無先決性的諮詢，這是符合香港長遠利益。我自己沒有既定目標，不會假設諮詢的結果，重要的是公公正正將可行的各種方案給市民討論，希望委員支持此動議。

立法會政制事務委員會
(2005 年 1 月 13 日)
二〇〇五年施政綱領
政制事務局局長發言要點

- ◆ 政制事務局在 2005 年施政綱領提出了一系列措施。我想借今天的機會向大家介紹措施的內容。

二〇〇七年之後的政制發展

- ◆ 今年我們會繼續推動二〇〇七年之後的政制發展事宜。政制發展專責小組已開展了第四號報告的諮詢工作。專責小組會繼續透過廣泛、開放及公開的途徑，收集社會各界的意見。在未來數月，我們會以不同方式聽取意見，包括舉行公眾論壇、小組討論等，以幫助掌握市民大眾的意見。而我也會出席各區區議會會議，聽取區議員的意見，加強溝通。這方面的工作已經展開，過去一星期我已先後到過屯門、南區及西貢，本星期五會去離島區。
- ◆ 專責小組希望在明年中左右，社會可以凝聚共識。屆時，專責小組將發表第五號報告，提出主流方案。在發表第五號報告之前，我們會以第四號報告內陳述自第三號報告諮詢期收集到社會各界的意見為基礎，繼續與社會各界共同探索應如何修改二〇〇七年行政長官及二〇〇八年立法會的產生辦法。

檢討區議會的角色、功能及組成

- ◆ 正如行政長官在昨天發表的施政報告中提到，今年我們將展開對區議會功能等方面的檢討，增加對區議會的支持。
- ◆ 我們今年會先集中處理修改零七、零八兩個選舉辦法的工作，繼而處理有關區議會的角色、功能及組成的檢討的事宜。

- ◆ 政制事務局已和民政事務總署成立了一個工作小組，為區議會的角色、功能及組成的檢討着手進行預備工作。雖然區議會檢討尚未正式展開，我們歡迎各界向我們提交這方面的意見。

推廣《基本法》

- ◆ 在過去一年，我們在推廣《基本法》方面開展了幾項新的工作。除了《基本法》圖書館正式啟用外，我們亦舉辦了許多新的推廣活動，例如《基本法》學校推廣日比賽和《基本法》頒布十四周年學生升旗禮。
- ◆ 學校推廣日比賽的反應熱烈，我們更安排了得獎同學訪問首都北京，加深他們對祖國的認識。在政制事務局與教育統籌局的支持下，我們也加強了公民教育方面的工作，舉例說，現時本港擁有學生升旗隊的學校已增加至二百所。
- ◆ 今年是《基本法》頒布十五週年，具有特別意義。我們希望能爭取多些資源，在來年舉辦更多推廣活動，深化市民對「一國兩制」原則和《基本法》的認識。

泛珠三角區域合作

- ◆ 在區域合作發展方面，來年我們會繼續積極參與泛珠三角區域合作，與其他各夥伴省區保持緊密合作。
- ◆ 泛珠三角區域合作的模式，是在「一國兩制」及內地與香港、澳門分別簽署的“建立更緊密經貿關係的安排”（CEPA）的框架下成立，對香港的長遠發展十分重要。現在香港的腹地由珠三角擴大至泛珠三角區域，為香港的產品和服務提供更加龐大的內銷市場。
- ◆ 泛珠三角合作的方向，可分三個重點：
 - 第一是推動基建、打通交通要道；

- 第二方面是讓香港的專業界在泛珠三角的範圍內有更廣闊的發展空間；
- 第三是推廣香港為內地企業的融資、集資中心，讓有關省區的企業可以在香港上市，並走向國際市場。
- ◆ 另一方面，為了加強我們與泛珠三角區域各夥伴省區的合作，增進對各省區的發展與政策的了解，我們已展開了對各省區的考察訪問活動。我們相關部門的同事上月已到海南省進行了為期三天的考察訪問，我會前往泛珠三角區域內其他省區進行考察訪問活動。
- ◆ 下一步我們會探討提升考察訪問活動的層次的可能性，有需要時並會邀請商界或專業界別的代表參加。
- ◆ 除了泛珠三角區域合作，特區政府會繼續積極參與推動落實與內地省市的合作的項目，我們會進一步推動粵港合作。

二〇〇四年立法會選舉

- ◆ 除上述 2005 年施政綱領內的措施，政制事務局今年也會繼續跟進二〇〇四年立法會選舉的事宜。
- ◆ 行政長官委任了一個非法定獨立專家委員會，就選舉的管理、策劃和執行進行檢討，以及建議改善措施。該委員會已經在一月初開始運作。委員會將會在進行檢討期間邀請有關人士提供意見。
- ◆ 政制事務局以及其他有關的部門和機構將繼續提供所需協助，使委員會的工作得以順利進行。
- ◆ 我們預計委員會需要約三個月完成工作，並向行政長官提交報告。

政制事務局

二零零五年一月十二日