

**Panel on Constitutional Affairs**

**List of outstanding issues**  
*(position as at 16 December 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 confirmed  
by the 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 2002-03 legislative session.

The legislative proposal was not included in the Government's Legislative Programme for 2002-03, 2003-04 and 2004-05. The Administration advised in writing in November 2004 that the Administration would revert to the Panel once it was in a position to do so.

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

Discussions on this item were held by the Panel since the 1998-99 legislative session.

To be confirmed  
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 (NPCSC), the State Council, the local NPC deputies and the Basic Law Committee.

Constitutional Affairs Bureau (CAB) advised in writing in November 2004 that it would revert to the Panel after it had completed discussion with the Central Authorities.

**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 Article 50 of the Basic Law. 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.

First quarter of 2005

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 November 2004 that it would provide an update to the Panel in the first quarter of 2005.

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

In January 2004, CE appointed a Task Force headed by the Chief Secretary for Administration (CS) with the Secretary for Justice and Secretary for Constitutional Affairs (SCA) as members, to take forward matters relating to constitutional development. Since its establishment, the Task Force published three reports respectively in March, April and May 2004. A background brief prepared by the LegCo Secretariat summarizing, inter alia, the discussions held by the Panel was issued to members vide LC Paper No. CB(2)49/04-05(02) in October 2004.

On-going discussion

The consultation on the Third Report ended on 15 October 2004. The Fourth Report, which summarized the views received on the Third Report, was released on 15 December 2004.

In response to the request of members, the Task Force provided its outline work plan regarding the method for selecting CE in 2007 and for forming LegCo in 2008 (LC Paper No. CB(2)215/04-05(01)).

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

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

October 2005

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 November 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 January 2004. CAB would work closely with the Home Affairs Bureau and other relevant bureaux and departments in the process. Hopefully, CAB would discuss the item with the Panel in October 2005 after a consensus has been reached over the package of electoral proposals for 2007 and 2008.

## **6. Issues relating to the Chief Executive**

### Restriction on activities of former holders of the office of CE

To be confirmed  
by CAB

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.

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)).

### Review of the remuneration for the third term CE

To be confirmed  
by CAB

The 12-month Report on Implementation of the Accountability System for Principal Officials was considered by the Panel at its meeting on 21 July 2003. The Administration informed the Panel that it would continue to review the remuneration for the third term CE.

CAB advised in writing in November 2004 that the Administration's present priority was to deal with the methods for selecting CE in 2007 and for forming the LegCo in 2008. When the overall direction for the electoral methods for 2007 and 2008 have been set, it would deal with issues relating to the restriction on activities of former holders of the office of CE and the review of the remuneration for the third term CE.

## **7. Political party law**

CAB advised the Panel in December 2002 that it had decided that it was not opportune to introduce a political party law to regulate the operation of political parties. It believed that political parties should be allowed sufficient room to develop so as to facilitate effectively the development of political parties. Imposing statutory controls on the operation of political parties might in fact hinder the development of political parties. CAB suggested introducing additional provisions within the existing legal framework to provide partial financial support to candidates standing in LegCo elections and to allow the printing of the names and emblems of candidates' parties (or organizations) or the candidates' photographs on the ballot paper.

January 2005

At the meeting on 21 June 2004, the Panel considered the Research Report prepared by RLSD on "The Regulatory Framework of Political Parties in Germany, The United Kingdom, New Zealand, and Singapore" (RP05/03-04). In its paper provided for the Panel in December 2004, the Administration maintains its position that it is unnecessary to introduce a political party law in Hong Kong at this stage.

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

On 21 June 2004, the Research Report prepared by RLSD on "Operation of Electoral Regulatory Bodies in Selected Places" (RP04/03-04) was presented to the Panel.

To be decided by the Panel

Members agreed to further explore the issues raised in the Research Report in the new legislative session. The Administration advised in writing in November 2004 that it was prepared to listen to members' views at future meetings.

#### **9. Issues relating 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 LegCo and its committees during the prorogation of the Council.

January 2005

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

- (a) whether the power to prorogue the Council should be transferred from CE to the President of LegCo; and

- (b) whether the power to determine the commencement and ending dates of a LegCo session should be transferred from CE to the President of LegCo; and
- (c) 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.

The Administration proposed in November 2004 that the item could be considered by the Panel in January 2005. It would provide a paper to the Panel to explain the Government's position.

Council Business Division 2  
Legislative Council Secretariat  
16 December 2004