

立法會
Legislative Council

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LC Paper No. CB(2)612/05-06
(These minutes have been seen
by the Administration)

**Subcommittee to Study the Administration's Proposals
for the Methods for Selecting the Chief Executive in 2007
and for Forming the Legislative Council in 2008**

**Minutes of the second meeting
held on Friday, 4 November 2005 at 8:30 am
in the 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
- 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
- Dr Hon LUI Ming-wah, SBS, JP
- Hon Margaret NG
- Hon CHEUNG Man-kwong
- Hon CHAN Yuen-han, JP
- Hon CHAN Kam-lam, SBS, JP
- Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, 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 LAU Kong-wah, JP
- Hon Miriam LAU Kin-yee, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon CHOY So-yuk, JP
- Hon Andrew CHENG Kar-foo
- Hon Timothy FOK Tsun-ting, GBS, JP
- 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 Jeffrey LAM Kin-fung, SBS, JP
Hon MA Lik, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man

**Members
absent** : Hon Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Frederick FUNG Kin-kee, JP
Hon Daniel LAM Wai-keung, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

**Public Officers
attending** : Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Ms Elsie LEUNG Oi-sie
Member, Constitutional Development Task Force

Mr Clement MAK Ching-hung
Permanent Secretary for Constitutional Affairs

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

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

Staff in attendance : Mr Jimmy MA
Legal Adviser

Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Ms Fanny LO
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting
(LC Paper No. CB(2)280/05-06 – Minutes of meeting on 27 October 2005)

The minutes of the meeting held on 27 October 2005 were confirmed.

II. Meeting with the Administration

Proposed List of Areas for Study

(LC Paper No. CB(2)275/05-06(01))

2. The Chairman said that based on Chapters 5 to 7 of the Fifth Report of the Constitutional Development Task Force (the Task Force), a proposed List of Areas for Study had been prepared to facilitate the work of the Subcommittee. The Chairman invited members to give views on the proposed List.

3. Some members, including Ms Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Kwok-hung and Mr LEE Wing-tat, expressed concern that members would be restricted from discussing issues other than those set out in the List, especially issues of wide public interest, such as a timetable for implementing universal suffrage.

4. Mr Jasper TSANG disagreed and considered that the proposed areas for study in the List were acceptable. He pointed out that other related issues, such as the timetable for universal suffrage, could be discussed by the Subcommittee under the relevant items of the proposed List, e.g. Items II and III concerning the methods for selecting the Chief Executive (CE) and for forming the Legislative Council (LegCo) (the “two methods”) in 2007 and 2008 respectively.

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5. Mr James TIEN and Mr Jeffrey LAM held the view that the Subcommittee should focus its work on the Administration's proposals for the "two methods" in 2007 and 2008. Mr TIEN said that he had reservation that the Subcommittee should discuss the issue of universal suffrage which was not covered in the Administration's proposals. He said that the Panel on Constitutional Affairs was a more appropriate forum to discuss the issue.

6. Dr Raymond HO held the view that the timetable for universal suffrage was a related issue and could be discussed by the Subcommittee. Dr LUI Ming-wah, however, expressed concern that if the scope of study was expanded to cover other related issues, the Subcommittee might not be able to complete its work in time.

7. Ms Audrey EU suggested and members agreed that the Subcommittee should work out the terms of reference to govern the scope of its work.

8. Ms Emily LAU suggested that some of the topics mentioned in the Fifth Report should also be included in the proposed List, such as the electoral base of the Election Committee and functional constituencies (FCs), and replacing corporate voting by individual voting. She also suggested that the procedure for dealing with the motions concerning the amendments to the "two methods" in 2007 and 2008 be included in the proposed List. Members agreed. Mr Jasper TSANG, in his capacity as the Chairman of the Committee on Rules of Procedure (CRoP), informed members that CRoP would hold a meeting on the following Monday to discuss the issue raised by Ms LAU. He said that CRoP would keep the Subcommittee informed of the progress of its discussion.

9. Mr LAU Kong-wah said that members should be allowed to propose topical issues for discussion by the Subcommittee, subject to giving advance notice for the issue to be included in the agenda before the relevant meeting. Members agreed to the arrangement. Mr CHEUNG Man-kwong added that the Administration should provide discussion papers on these issues. Mr LAU suggested and members agreed that the Administration should provide a paper on the opinion polls on constitutional development conducted recently in the community and the Administration's response to the results of the polls for discussion at the next meeting.

10. The Chairman stressed that the proposed List sought to facilitate the work of the Subcommittee and was not meant to impose restrictions on the discussion of members. The Chairman said that the draft terms of reference of the Subcommittee and a revised List of Areas for Study would be prepared for members' consideration at the next meeting.

Administration's paper on "The Fifth Report of the Constitutional Development Task Force : Package of Proposals – Legislative Timetable"

(LC Paper No. CB(2)275/05-06(02))

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11. Secretary for Constitutional Affairs (SCA) briefed members on the legislative timetable for implementing the package of proposals set out in the Fifth Report. In gist, the Administration would formally present to LegCo the motions on the amendments to Annex I and Annex II to the Basic Law not later than December 2005 and endeavour to obtain LegCo's endorsement on 21 December 2005. With the endorsement of LegCo and the consent of CE, CE would then submit a report together with the (Draft) Amendments to Annex I and Annex II (the Draft Amendments) to the Standing Committee of the National People's Congress (NPCSC) in late December. If the proposed amendments to the Annexes were agreed by NPCSC, the Administration would be able to introduce the Chief Executive Election (Amendment) Bill (the Bill) into LegCo in January 2006 so that LegCo would have adequate time to scrutinize the detailed provisions of the Bill from January to April 2006.

12. Mr LEE Wing-tat asked the Administration to consider deferring the submission of the Draft Amendments to NPCSC to February 2006, so as to allow more time for LegCo and the public to consider the proposed package. He pointed out that according to a recent opinion poll conducted by the Chinese University of Hong Kong, 65% of the respondents considered that the Administration should provide a timetable for attaining universal suffrage at this stage. He further pointed out that according to paragraph 6 of the Administration's paper, the Administration could request NPCSC to scrutinize and decide on whether to accept the Draft Amendments at the meeting in February 2006.

13. SCA explained that paragraph 6 of the paper merely set out the meeting dates of NPCSC. In the past 18 months, the Task Force had conducted extensive public consultation and was well aware of the public's aspirations for broader democratic representation in the "two methods" for 2007 and 2008, and for the attainment of universal suffrage as soon as possible. To this end, the Task Force adopted a two-pronged approach to address public's concerns. First, it had put forth a package of proposals for the "two methods" for 2007 and 2008 to take forward constitutional development. Second, a Committee on Governance and Political Development under the Commission on Strategic Development would be set up to study the ways to implement universal suffrage after 2007/2008 in accordance with the principles and provisions of the Basic Law.

14. Mr CHEUNG Man-kwong advocated that CE should submit the Draft Amendments to NPCSC in February 2006 and during the interim period, the Administration could make arrangement for Members to visit Beijing for the purpose of reflecting the views of Hong Kong people to the Central Authorities, and amend the proposed package to incorporate a timetable for universal suffrage. He also suggested that the Administration should make use of the NPCSC's meeting in December to reflect public's demand for inclusion of a timetable for universal suffrage in the proposed package.

15. Ms Emily LAU said that even though the package of proposals did not provide a timetable for universal suffrage, LegCo could still discuss the issue. If a consensus

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could be reached, the report to be submitted by CE to NPCSC could cover this subject.

16. SCA said that the Interpretation and Decision made by NPCSC on 6 and 26 April 2004 respectively had clearly set out the parameters for amending the “two methods”, i.e. amendments could be made to the “two methods” in 2007 and 2008, and that the elections in 2007 and 2008 should not be by means of universal suffrage. Hence, the proposed package would only focus on the “two methods” for 2007 and 2008, as a timetable for attaining universal suffrage would be outside the scope of the Decision. SCA pointed out that any proposed amendments to the “two methods” required a consensus among the Central Authorities, CE and LegCo. There were still divergent views on how best to achieve universal suffrage in terms of timing, methodology and structure, and it was unrealistic to expect that the Administration could resolve these issues within a short time. The Administration, however, was prepared to discuss the roadmap for universal suffrage in the Committee on Governance and Political Development chaired by CE.

17. Mr Howard YOUNG asked about the implications of deferring the submission of the Draft Amendments to NPCSC and whether it was constitutional and technically feasible for LegCo to study the Bill at the same time when the Draft Amendments were considered by NPCSC.

18. SCA explained that in the event that NPCSC could only scrutinize and decide on whether to accept the Draft Amendments at the meeting to be held in end February 2006, the time for LegCo to scrutinize the Bill would be considerably shortened as a result. Since the Bill involved detailed amendments to the Chief Executive Election Ordinance, sufficient time should be allowed for scrutiny by LegCo. He further said that the Bill could only be introduced after the Draft Amendments were agreed by NPCSC.

19. Mr LEE Cheuk-yan cited the remark made by CE at the Wilton Park Conference in England that “Hong Kong cannot act unilaterally in this regard (constitutional reform), although some people, naively in my view, believe we can and should”. Mr LEE pointed out that Hong Kong people had been naive because they did not know the views of the Central Authorities on the constitutional development of Hong Kong. He requested and the Administration undertook to provide a paper on the subject for discussion at the next meeting.

20. Mr LEE Cheuk-yan asked whether the Administration would conduct public consultation on the specific proposals put forth in the Fifth Report and whether there was room for amendment to the proposals.

21. SCA said that the Task Force had conducted wide public consultation in several stages in the past 18 months. The Fifth Report had consolidated views collected from public consultation and come up with concrete proposals on the “two methods” for 2007 and 2008. The Administration would collect public views on the

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package of proposals through various channels, such as visiting the 18 District Councils (DC) by the Chief Secretary for Administration, taking note of the polls conducted by individual academic and media organizations, inviting public views through the website of the Task Force, and listening to public views at the meeting of the Subcommittee to be held on 12 November 2005. SCA said that the proposed package had enhanced the level of democratic representation in the “two methods”, and he noted that it had the support of the majority of the public.

22. Mr Jasper TSANG said that Members’ support for the two motions on the amendments to Annex I and Annex II to the Basic Law would depend very much on the details of the amendments to the relevant local legislation. As the wording of the two motions was very simple, he asked whether the package of proposals put forth in the Fifth Report would indeed be implemented following endorsement of the two motions by Members. For example, how Members could ensure that the amendments to be proposed by the Administration to the relevant local legislation would provide five additional DC FC seats as put forth in the Fifth Report, and not five traditional FC seats.

23. Mr Martin LEE shared the concern of Mr TSANG and said that based on past experience, the Government of the Hong Kong Special Administrative Region (HKSAR) would easily be influenced by the Central Authorities and change its position. Mr LEUNG Kwok-hung held the view that members should be provided with the details of the amendments to the relevant local legislation before giving endorsement to the two motions.

24. SCA said that relevant detailed changes to the methods for selecting the third term CE and for forming the fourth term LegCo would be effected by amending the relevant local legislation, the details of which would be scrutinized and approved by LegCo. As far as the formation of the fourth term LegCo was concerned, the Administration had already made public its decision not to increase the number of traditional FCs. The Government of the HKSAR would honour its word. In further response to Mr TSANG, SCA said that given the tight legislative timetable, there was no time and in fact not necessary to introduce a white bill for Members’ scrutiny.

25. Mr LAU Kong-wah pointed out that the opinion poll conducted by the Chinese University of Hong Kong revealed that while 65% of the respondents considered that a timetable for universal suffrage should be set, about 60% of the respondents also considered that the Administration’s package of proposals was acceptable. He said that the two results were not contradictory, and were a reflection of the pragmatism of the public that constitutional development should be progressive. He asked whether the CE report to be submitted to NPCSC in December 2005 would reflect the views of the public so that NPCSC would have a better understanding of the situation in Hong Kong. SCA noted Mr LAU’s view on the poll.

26. Ms Margaret NG said that there were two key issues revealed in the opinion poll conducted by the Chinese University of Hong Kong. First, 65% of the

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respondents considered that a timetable for universal suffrage should be set. Second, over 70% of the respondents supported universal suffrage to be implemented by 2012. Ms NG asked whether the Administration had conducted an opinion poll to gauge public support for implementation of universal suffrage in 2012, and whether it had discussed with the Central Authorities the possibility of implementing universal suffrage in 2012.

27. SCA said that the discussion with the Central Authorities had all along been focused on the “two methods” for 2007 and 2008. The public’s aspiration for progress in constitutional development, had been reflected fully to the Central Authorities following each round of consultation conducted by the Task Force.

28. Dr Fernando CHEUNG asked about the provision in the Basic Law which prohibited the setting of a timetable for universal suffrage. Ms Elsie LEUNG, member of the Task Force, explained that Articles 45 and 68 of the Basic Law provided that the methods for selecting CE and for forming LegCo should be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. In accordance with the NPCSC Decision on 26 April 2005, changes could only be made to the “two methods” for 2007 and 2008. SCA reiterated that a timetable for introducing universal suffrage required a consensus among the Central Authorities, CE and LegCo and could not be decided by the Government of HKSAR unilaterally.

III. Any other business

Date of next meeting

29. The Chairman informed members that the next two meetings would be held on 11 November 2005 at 8:30 am and 12 November 2005 from 2:00 pm to 6:00 pm respectively. The purpose of the latter meeting was to receive public views on the Administration’s proposals set out in the Fifth Report.

30. The meeting ended at 10:45 am.