

立法會

Legislative Council

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LC Paper No. CB(2)1592/05-06

(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 third meeting
held on Friday, 11 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 Hon LEE Cheuk-yan Hon Martin LEE Chu-ming, SC, JP Dr Hon LUI Ming-wah, SBS, JP Hon Margaret NG Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP Hon CHEUNG Man-kwong Hon CHAN Yuen-han, JP Hon CHAN Kam-lam, 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 Abraham SHEK Lai-him, JP Hon Audrey EU Yuet-mee, SC, 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 Alan LEONG Kah-kit, SC
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Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man

- Members absent** : Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, JP
Hon Vincent FANG Kang, JP
Hon Daniel LAM Wai-keung, BBS, JP
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 Joseph LAI Yee-tak
Deputy 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. Matters arising

Proposed Terms of Reference
(LC Paper No. CB(2)345/05-06(01))

Members endorsed the proposed terms of reference of the Subcommittee.

Revised List of Areas for Study
(LC Paper No. CB(2)345/05-06(02))

2. The Chairman invited members to give views on the revised List of Areas for Study (the List). Ms Emily LAU said that the List had not included the procedures for dealing with the motions concerning the amendments to the methods for selecting the Chief Executive (CE) and for forming the Legislative Council (LegCo) under Annex I and Annex II of the Basic Law respectively (the “two methods”), as raised by her at the last meeting. The Chairman explained that the issue could be discussed under Items II(5) and III(5) of the List. Ms LAU said that given the importance of the issue, priority should be accorded to its discussion.

3. Members endorsed the List.

Views of the Central Authorities on the constitutional development of the Hong Kong Special Administrative Region (HKSAR)
(LC Paper No. CB(2)345/05-06 (03))

4. Secretary for Constitutional Affairs (SCA) introduced the paper which set out the views of the Central Authorities on the constitutional development of HKSAR.

5. Mr LEE Wing-tat said that he did not understand why the Administration had quoted, from time to time, the remarks made by Director JI Penfei in 1990 that “the

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political structure of the HKSAR should accord with the principle of ‘One Country, Two Systems’ and aim to maintain stability and prosperity in Hong Kong in line with its legal status and actual situation. To this end, consideration must be given to the interests of different sectors of society and the structure must facilitate the development of the capitalist economy in the Region. While the part of the existing political structure proven to be effective will be maintained, a democratic system that suits Hong Kong’s reality should gradually be introduced.” Mr LEE said that as constitutional development moved forward, the principles mentioned by Mr JI would continue to be upheld. He noted that the Administration had placed particular emphasis on the principle of “balanced participation” and asked whether it was worried that the grassroots, labour unions and political parties would dominate the seats in LegCo. He said that the Democratic Party, in its recent submission to the Administration, had made reference to the electoral system in Germany where the small sectors of community were well represented in the parliament. It was unlikely that the legislatures of democratic countries would fail to adhere to the principle of “balanced participation”. He queried the purpose for the Administration to quote the remarks of Mr JI.

6. SCA said that he was aware of the submission of the Democratic Party. The Commission on Strategic Development (CSD) would make reference to overseas examples in its study on the model for forming LegCo when the ultimate aim of universal suffrage was attained. In his view, each place should develop its own political system to suit its needs, taking into account its historical, social, cultural and economic background. For instance, in the United Kingdom and Canada which practised the bicameral system, members of the upper chamber were hereditary or appointed. He explained that in the process of democratization, LegCo Members would eventually be directly-elected or returned by universal suffrage, and it was important to maintain the principle of “balanced participation”. The remarks of Mr JI were important and served as an assurance to different sectors of the community that their interests would be safeguarded as the political system of Hong Kong evolved.

7. Mr LAU Kong-wah said that CE had remarked that the package of proposals was not easy to come by and that if it failed to gain passage in LegCo, there would be complete loss of mutual trust between the Central People’s Government (CPG) and the Government of the HKSAR. He asked to what extent CPG had accepted the proposed package. He also asked about the consequences if the package of proposals could not gain the support of LegCo.

8. Mr CHEUNG Man-kwong asked whether the public had to accept the proposed package because it was not easy to come by. He also queried whether the relationship between CPG and the Government of Hong Kong was that fragile, or CE’s remarks were merely a threat. Mr TONG Ka-wah echoed Mr CHEUNG’s view and expressed dissatisfaction with the remarks made by Professor LAU Siu-kai, Head of the Central Policy Unit, that if the proposed package was rejected by LegCo, there would be no discussion for amending the “two methods” until ten years later. He

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considered the remarks as a threat and queried why the Administration did not address public's aspiration for universal suffrage.

9. Mr LEE Cheuk-yan said that the people of Hong Kong had never said that they would accept the proposed package. He queried whether CE had made a commitment to the CPG that the proposed package would be accepted by LegCo and as a result, the failure in doing so would result in the loss of trust between CPG and CE.

10. SCA said that following the withdrawal of the National Security Bill in mid-2003, there was political tension within the community. In the past two years, various parties had made a lot of efforts to relieve that tension. The Administration had strived to explore a more open electoral system to address public's concern. In the course of formulating the package of proposals for the "two methods" in 2007 and 2008, the Government of HKSAR had exchanged views with the relevant departments of the Central Authorities. It had made the best endeavour to solicit support from them. The Central Authorities had hoped that with growing political maturity and respect for differences in opinion in the community of Hong Kong, a consensus could be reached to take forward constitutional development. SCA said that in the event that the package of proposals could not gain the required two-thirds majority support from all the LegCo Members, there would be status quo in the "two methods". A constitutional vacuum would not occur, but both CPG and the Government of HKSAR would be greatly disappointed.

11. Ms Emily LAU said that the people of Hong Kong had lost trust with the Central Authorities following the unnecessary interpretation made by the Standing Committee of the National People's Congress (NPCSC) on Annex I and Annex II to the Basic Law on 6 April 2004. She doubted whether the Administration had done its best to reflect public's aspiration for universal suffrage to the Central Authorities. If the package of proposals was not supported by LegCo, pan-democratic Members should not be held responsible. She asked whether CE would take the opportunity to convey to President HU Jintao the public's aspiration for universal suffrage, when he attended the Asia-Pacific Economic Co-operation summit to be held in the following week in Pusan, South Korea. She also asked whether the Administration had requested Mr LI Gang of the Liaison Office of the Central People's Government in the HKSAR (the Liaison Office) to solicit support from Members on the proposed package.

12. SCA said that following each round of public consultation, the Constitutional Development Task Force (the Task Force) had conveyed to the Central Authorities public's expectation for universal suffrage. These views were reflected in the reports of the Task Force. The Administration was well aware that the package of proposals was not perfect, but it was the best within the framework of the NPCSC Decision of 26 April 2004. The results of different opinion polls also showed that the proposed package was generally accepted by the majority of the public. SCA further said that CE would update President HU on the latest situation in Hong Kong whenever

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opportunities arose. As regards the Liaison Office, SCA explained that part of its work was to gather views from different sectors of the community and reflect them to the Central Authorities. It was, however, the duty of the Administration to solicit support from Members on the proposed package.

13. Mr CHEUNG Man-kwong and Mr LEE Wing-tat said that CE should bring up the possibility of revising the proposed package by including a timetable for universal suffrage when he met President HU. There was clear indication that the public wished to have universal suffrage in 2012. Mr Martin LEE pointed out that the stance of pan-democratic Members would not waver. In this connection, CE should make the best endeavour to convince President HU of the need for a revised proposed package with a timetable for universal suffrage so that constitutional development could move forward. Dr Fernando CHEUNG asked whether the Administration had done its best to convince the Central Authorities and how the Administration could explain to the people of Hong Kong that they did not deserve to be given the right to exercise “one person, one vote” in an election.

14. SCA responded that there were divergent views on how best to achieve universal suffrage in terms of timing and methodology. To this end, the Committee on Governance and Political Development under CSD had been tasked to study ways to implement universal suffrage in accordance with the provisions and principles of the Basic Law and draw up a roadmap for attaining universal suffrage. When there was a roadmap, a timetable for attaining universal suffrage would follow naturally. At this stage, the Administration could not ask the Central Authorities to endorse a revised proposed package with a timetable for universal suffrage on which no consensus had been reached. It was also unrealistic to ask the Administration to jump to the final destination of universal suffrage and skip the interim steps on the road to universal suffrage. The Administration considered it necessary to create favourable conditions and provide adequate supporting measures to ensure effective implementation of universal suffrage. Although the package of proposals was drawn up after months of hard work, it still faced immense difficulties in gaining support from two-thirds of all the LegCo Members. He doubted that the pan-democratic Members’ proposal of adopting a timetable for universal suffrage would be readily accepted by two-thirds of all the LegCo Members.

15. Mr Martin LEE said that the Basic Law had provided for the implementation of universal suffrage in 2007 or thereafter, when it was promulgated in 1990. He failed to understand why a timetable could not be provided now. He further said that in the 1990’s, both the Liberal Party and the Democratic Alliance for the Betterment of Hong Kong had supported the implementation of universal suffrage in 2007/08, although the two parties had subsequently changed their position. There was consensus in LegCo at that time, but the Administration had not pursued the matter further.

16. SCA clarified that the Basic Law had allowed for amendments to be made to the “two methods” after 2007 but it did not set a timetable for attaining universal

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suffrage. In the 1990's, democratic development had not progressed to a stage where LegCo and the Administration could agree on a timetable for attaining universal suffrage.

17. Mr LEE Cheuk-yan asked about the Central Authorities' view on HKSAR's future constitutional development, i.e. the timing for implementing universal suffrage. He said that if democratic development could not move forward, CE should carry the blame because he did not give an undertaking on when to implement universal suffrage. He said that there was no point to have a transit stop if no one knew where the destination was. In his view, the road to universal suffrage was straightforward but the Administration had made it long and winding.

18. SCA said that the position of the Central Authorities was very clear; any proposal to achieve the ultimate aim of universal suffrage should comply with the Basic Law and the NPCSC Interpretation and Decision. The overall direction of moving towards universal suffrage was also very clear; it should be in gradual and orderly progress. In his view, the proposed "two methods" in 2007/2008 would be a step towards the ultimate aim of universal suffrage.

19. Ms Margaret NG said that the Administration had started pursuing constitutional development since 1999 and she wondered why no progress had been made on the roadmap for universal suffrage after a lapse of six years. She said that tasking CSD with the responsibility to discuss the roadmap could be another delaying tactic. She asked how long CSD intended to discuss the issues relating to universal suffrage and what follow-up action would be taken by the Administration if a consensus could not be reached, e.g. whether the Administration would encourage the establishment of a constitutional convention to gather views from the public.

20. SCA disagreed that no progress had been made on constitutional development. He said that the proposed package put forth by the Task Force would enhance the level of democratic representation in the two elections. In addition, the Administration had proposed that for the formation of the fourth term LegCo, the number of "traditional" functional constituency seats would not be increased. He said that if the Administration intended to delay constitutional development, it would not have tasked CSD to discuss the subject. He said that members of CSD were appointed by CE and it was for them to decide on the work schedule. It was expected that CSD would reach some preliminary findings before mid-2007.

21. Ms Emily LAU said that CSD lacked transparency. She asked about the membership of CSD and the criteria for appointment. She requested that the Panel be provided with copies of the papers prepared by the Administration for CSD. She said that LegCo had the constitutional responsibility to discuss the issue of constitutional development and no other body could take its place.

22. SCA responded that the Administration would make public the membership list of CSD once it was finalized. CSD was tasked to canvass views from various sectors

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of the community in response to Government's new policy initiatives. Members of CSD were drawn from a broad cross section of the community including professionals, academics, businessmen, LegCo Members, members of political parties and groups, etc. He undertook to provide the relevant papers considered by CSD to the Panel for reference.

23. Referring to Mr Martin LEE's earlier remark, Mrs Selina CHOW pointed out that pan-democratic Members had also changed their stance on the timetable for attaining universal suffrage from 2007/08 to 2012. Pan-democratic Members had further demanded for a timetable for universal suffrage in 2012 before they would support the package of proposals. She pointed out that while it was a fact that the public wanted a timetable for universal suffrage, it was also a fact that the community at large supported the proposed package. Some Members, however, had claimed that the public wanted a timetable for universal suffrage as a prerequisite for their acceptance of the Administration's proposed package. In her view, the two issues should be dealt with separately. Mr Jeffrey LAM supported Mrs CHOW's view and said that the public had not indicated that they would not support the proposed package without a timetable.

24. Mr TONG Ka-wah said that Mrs CHOW was adding insult to injury. He said that pan-democratic Members were forced to give up their fight for universal suffrage in 2007/08 because NPCSC had ruled it out. There was a difference between pan-democratic Members and some political parties, as the former had fought for universal suffrage in 2007/08 until the very last minute, whereas the latter had given up their democratic principles readily.

25. Mrs Selina CHOW said that Members, political parties and the Administration had a role to pursue democratic development in Hong Kong. She conceded that since the handover, political parties had not done enough to create favourable conditions for implementing universal suffrage. Mrs CHOW further said that some pan-democratic Members, however, had used simple slogans to paint a false picture that universal suffrage was the panacea to solve every problem. They should not stand on a high moral ground and tell people that it was a rose garden. She said that the approach was dishonest, given that universal suffrage could only be implemented with the support of a package of measures.

26. Mrs CHOW's remarks on dishonesty sparked off objections from some pan-democratic Members. Ms Margaret NG and Ms Audrey EU asked Mrs CHOW to retract her words. Mrs CHOW clarified that her remarks about "dishonesty" referred to the approach, and not any person.

27. Mr TONG Ka-wah said that as a Member returned by direct election, he was merely reflecting public's aspiration for universal suffrage. In his view, the existing electoral system had hindered LegCo from exercising the check and balance function on the Administration. Universal suffrage could help strike the right balance. Ms Audrey EU said that voting at elections by universal suffrage was one of the basic

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rights of the citizens as provided in the International Covenant on Civil and Political Rights. She could not see how pan-democratic Members fighting for that right were standing on a high moral ground.

28. Mr Jasper TSANG said that in quoting opinion polls conducted on the proposed package, one should be honest by quoting not only the percentage of people who supported implementation of universal suffrage in 2012, but also the result that there were more people in support of the proposed package than those who were not. He noted that some members had selectively quoted the results of opinion polls to suit their own purpose.

29. Mr CHEUNG Man-kwong and Mr LEE Wing-tat said that it was common for members to have different views on certain issues, but members should avoid using sensitive words such as "dishonest". Mr LEE asked whether the Administration would submit a revised proposed package with a timetable for universal suffrage to the Central Authorities if thousands of people took to the street in the mass rally to be held on 4 December 2005.

30. SCA reiterated that the opinion polls recently conducted had continued to show that the proposed package was on the whole supported and accepted by the public. The Administration would continue to monitor and consider the feedback from the community.

II. Date of next meeting

31. Members noted that the next meeting would be held on 12 November 2005 from 2:00 pm to 6:00 pm to receive public views on the package of proposals. The Chairman said that items not discussed at this meeting would be carried forward to the meeting to be held on 15 November 2005 at 4:30 pm.

32. The meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
30 March 2006