

**立法會**  
**Legislative Council**

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LC Paper No. CB(2)2427/05-06  
(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 eighth meeting  
held on Monday, 28 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 Fred LI Wah-ming, JP
- Dr Hon LUI Ming-wah, SBS, 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, 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-ye, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon CHOY So-yuk, JP
- Hon Andrew CHENG Kar-foo
- Hon LI Fung-ying, BBS, JP
- Hon Tommy CHEUNG Yu-yan, JP
- 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  
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  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon KWONG Chi-kin  
Hon TAM Heung-man

**Members  
absent**

: Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon David LI Kwok-po, GBS, 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 Abraham SHEK Lai-him, JP  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon LEUNG Kwok-hung

**Public Officers  
Attending**

: Mr Stephen LAM  
Secretary for Constitutional Affairs

Ms Elsie LEUNG  
Member, Constitutional Development Task Force

Mr Joseph LAI  
Deputy Secretary for Constitutional Affairs

Mr Raymond TAM  
Principal Assistant 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

Mrs Fanny TSANG  
Legislative Assistant (2)3

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**I. Administration's responses to issues raised at previous meetings**  
(Item II of the List of Areas for Study)

(LC Paper No. CB(2)463/05-06(01) – Administration's response to the issues raised by members at the meeting on 19 November 2005

LC Paper No. CB(2)510/05-06(01) – Administration's further response to the issues raised by members at the meeting on 19 November 2005)

Members noted the responses provided by the Administration to the issues raised at the meeting on 19 November 2005.

**II. Method for forming the Legislative Council in 2008**  
(Item III of the List of Areas for Study)

(Chapter 5 of the Fifth Report of the Constitutional Development Task Force

Questions (a) and (d) of LC Paper No. CB(2)283/05-06(01) – Paper provided by the Administration in response to the issues raised by the Panel on Constitutional Affairs at the special meeting on 21 October 2005

LC Paper No. CB(2)345/05-06(06) – Paper provided by the Administration on "Some Detailed Arrangements Regarding the Method for Forming the Legislative Council")

2. Secretary for Constitutional Affairs (SCA) briefed members on the paper which set out certain practical issues that needed to be dealt with in local legislation in the event that the motion on the amendments to Annex II regarding the electoral method for forming the Legislative Council (LegCo) in 2008 was passed by Council. The practical issues included the arrangement for delineation of geographical constituencies (GCs) when the number of GC seats was to be increased from 30 to 35, and the electoral method for the District Council (DC) Functional Constituency (FC) seats when the number of DC FC seats was to be increased from one to six.

### Delineation of GCs

3. Mr LAU Kong-wah said that under the proposal to increase the number of GC seats from 30 to 35, the population quota represented by each seat in 2008 would be around 201 700. If the number of GCs was to remain at five, the number of Members to be returned for each GC could be as many as nine. He expressed concern whether the voters would have difficulties in distinguishing the various candidates in an election. In addition, the number of votes obtained by individual candidates could vary greatly from one GC to another. Mr LAU said that he was inclined to support the proposal to increase the number of GCs in order to keep the number of seats in each GC to a small number.

4. Mr Ronny TONG also held the view that the number of GCs should be increased, with the number of Members to be returned from each GC to remain at three or four.

5. SCA responded that at this stage, the Administration had not formed a view on whether the number of GCs was to remain at five, or whether the number of Members to be returned for each GC was to remain at a number not less than four nor greater than eight. The Administration was prepared to listen to the views of Members and the public. If there was any change in the number of GCs, the Electoral Affairs Commission would be the appropriate authority to determine the delineation of these GCs.

6. Ms Emily LAU held the view that for each GC to return eight Members was too many. She suggested that as a means to promote political party development, the Administration should consider the electoral system adopted by Japan and Germany, whereby members of the legislature were elected in district constituencies under the proportional representation system. The number of seats that a political party won in Parliament was proportional to the number of votes the party obtained.

7. SCA responded that the Administration also encouraged political party development. It hoped that through the package of proposals put forth in the Fifth Report of the Constitutional Development Task Force (the Task Force) which sought to increase the number of LegCo seats and enhance participation from DC members, more opportunities would be given to political talents. As regards the electoral system proposed by Ms LAU, SCA reiterated that the Administration was open-minded about the issue.

### Electoral system for DC FC seats

8. Mr LAU Kong-wah asked whether the six Members of the DC FC would be returned on a district basis.

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9. SCA said that the Administration had not ruled out the possibility of returning the six DC FC seats by a block vote system on a district basis. The procedure for returning these seats by a proportional representation system on a district basis, however, was complex and required careful consideration.

10. Mr Ronny TONG said that the newly-added FC seats would be returned through election by DC members from among themselves. He wondered whether the Administration intended to adopt the block vote system so as to maintain the influence of appointed DC members over the election outcome. He pointed out that DCs consisted of mainly pro-government and pan-democratic members. To implement the principle of “balanced participation”, a possible option was to divide the 18 districts into three regions with each region to return two Members from pro-government and pan-democratic camps respectively.

11. SCA said that there was a proposal that the 18 districts should be divided into, say, six regions and each region to return a DC FC seat through election by DC members from among themselves. At this stage, the Administration had not decided on the electoral system through which the six seats of DC FC should be returned. The Administration was prepared to listen to members’ views.

12. Mr WONG Yung-kan said that he supported the block vote system for returning DC FC seats.

Motions concerning the amendments to Annexes I and II of the Basic Law

13. Mrs Selina CHOW asked whether the Administration would decide on the details for implementing the electoral arrangements before the passage of the two motions on the amendments to Annexes I and II regarding the methods for selecting the CE and for forming LegCo (the “two methods”) in 2007/08.

14. SCA said that the two papers on detailed arrangements regarding the “two methods” (LC Paper Nos. CB(2)345/05-06(05) and (06)) were prepared by the Administration in response to members’ requests. The papers sought to let members know the issues that needed to be dealt with in local legislation. The Administration would firm up the various arrangements of these issues if the two motions were endorsed by the Council.

15. Ms Miriam LAU asked whether there was further room for enhancing democratic representation, in the event that the two motions were not supported by LegCo.

16. SCA responded that the package of proposals, which was arrived at after 18 months of wide consultation, provided the highest possible degree of democratic elements within the framework laid down by the Interpretation and Decision made by the Standing Committee of the National People’s Congress (NPCSC) in April 2004. In the event that the two motions were not supported by Members, there was not much

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the Administration could do to enhance democratic representation in the “two methods”.

**III. Any other business**

Bicameral system

17. Members noted that as agreed at the meeting of the Panel on Constitutional Affairs on 21 November 2005, the Administration had provided discussion papers prepared for the Commission on Strategic Development (CSD) to the Panel for reference. The two relevant papers were issued to members vide LC Paper Nos. CB(2) 519/05-06(01) and (02) on 26 November 2005.

18. Mr LEE Wing-tat said that the discussion papers issued to CSD were negative about forming a democratic LegCo. In a recent press briefing, Professor LAU Siu-kai, Head of the Central Policy Unit, had said that the views in the discussion papers were gathered from the public. Mr LEE questioned why the merits of democracy were not mentioned in the papers. He also questioned the basis for bringing up the bicameral system which was not provided for in the Basic Law. In his view, the underlying reason for adopting a bicameral system was to retain the FC system. It appeared to him that the Administration intended to constitute a chamber of FC Members. He recalled that in UK, the House of Lords was not involved in matters of taxation and finance. It could only delay, but not prevent, any bill from becoming law once it had been passed by the House of Commons. There was no place in the world where the upper chamber whose members were not returned by direct election could enjoy the same power as that of the lower chamber. He saw no reason why the FC system, which allowed certain sectors such as the business and commercial sectors to enjoy power without going through the democratic process of direct election, should be retained.

19. Dr YEUNG Sum questioned whether CSD, which consisted of mainly pro-government members, would discuss the timetable for universal suffrage to address public’s aspiration. He further asked whether the retention of the FC system and the introduction of a bicameral system were in breach of the Basic Law.

20. SCA responded that the Administration was committed to attaining the ultimate aim of universal suffrage in accordance with the Basic Law. The two discussion papers sought to provide an overview of the political structure of the Hong Kong Special Administrative Region (HKSAR) and a preliminary study on the methods to be adopted for selecting CE and for forming LegCo when universal suffrage was attained. CSD would serve as an open forum to facilitate public discussion on the issue of universal suffrage. CSD would draw up a roadmap for attaining universal suffrage by taking into account public views. With such a roadmap, the timetable for attaining universal suffrage would follow naturally.

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21. SCA further said that the Basic Law had not specified the method for forming LegCo when universal suffrage was attained. Both the bicameral system and a unitary system were possible options for forming the legislature. At this stage, the Administration had not formed any view on the matter, not to mention how the power of the upper and lower chambers should be divided. SCA further said that the future of FCs required to be further discussed.

Views on the package of proposals

22. Mr CHEUNG Man-kwong said that as reported by the press, SCA had cited a parable in Bible as an analogy to the package of proposals. As the parable referred to a master entrusting his property to his servants, Mr CHEUNG considered the analogy inappropriate as it implied that HKSAR was the servant of the Central People's Government (CPG) and should accept the package of proposals offered. He doubted whether the Administration had done its best to fight for universal suffrage for the people of Hong Kong. He also queried whether it was fair to say that those who did not support the package of proposals should bear the blame for impeding progress in constitutional development.

23. SCA clarified that it was not his intention to use the parable to illustrate the relationship between CPG and HKSAR as one between a master and a servant. He merely wanted to say that as far as constitutional development was concerned, the Administration had maximized the room it could maneuver under the prevailing constraints. He pointed out that Hong Kong was not a sovereign state. Any proposal relating to constitutional development could be taken forward only if it had consensual support within Hong Kong and was agreed by CPG. The Administration believed that the proposed package, although it might not be perfect, had instilled as much democratic element as possible. The opinion polls conducted by various organisations after the release of the Fifth Report had shown that the proposed package was on the whole supported and accepted by the public.

24. Mr CHIM Pui-chung considered that certain proposals in the Fifth Report had contravened the Basic Law and the Interpretation and Decision of NPCSC made in April 2004. He made the following points –

- (a) the distribution of EC members among the four sectors was stipulated in the Basic Law. The additional number of seats proposed to be allocated to the four sectors in the Election Committee (EC) was not even. While the first three sectors only had their membership increased by 50%, the membership of the Fourth Sector was increased by 250%. The proposal was not consistent with the principle of “balanced participation”;
- (b) incumbent DC members were not aware that they would be given the voting right in the CE election and LegCo election. He questioned the basis for the Administration to change the function of DC members;

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- (c) the NPCSC Decision provided that the ratio between Members returned by FCs and GCs through direct elections was to remain at a balance of 50/50. He queried why the Administration had decided against increasing the “traditional” FC seats in LegCo in 2008. The proposal to create more DC FC seats with the result of enhancing the democratic representation in LegCo had effectively changed that balance; and
- (d) whether the Central Authorities had given formal or verbal endorsement of the package of proposals. He pointed out that the comment that LegCo should bear the blame for impeding constitutional development if the two motions were not passed was unfair and improper, given that the package of proposals was designed by the Administration.

25. SCA’s response was as follows –

- (a) the Basic Law was promulgated in 1990 and Hong Kong had been making steady progress on constitutional development since reunification. The Basic Law provided that there should be gradual and orderly progress in constitutional development. In this connection, the distribution of EC membership among the four sectors could vary with a view to making progress towards democratization. The package of proposals had indeed enhanced democratic representation in the two elections;
- (b) DC members came from different sectors of the community. Around one-fifth were from the professional and managerial ranks, while the others included teachers, social workers, representatives of trade unions, housewives, etc. The composition of DC epitomized the spirit of “balanced participation” and gave full effect to the principle of “looking after the interests of different sectors of the community”;
- (c) Article 97 of the Basic Law stipulated the functions of district organizations. As regards DC’s role in CE and LegCo elections, at present one DC FC seat was returned through election by DC members from among themselves, and 42 DC members in EC were also returned through election by DC members among themselves under the existing arrangement. The package of proposals merely sought to enhance DCs’ participation in the two elections and there was no change in their functions under the Basic Law;
- (d) under the package of proposals, the ratio between Members returned by GCs and FCs would remain at 50/50, although the participation of DC members would be enhanced; and

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- (e) it was the constitutional duty of the Administration to introduce proposals for the “two methods”. The Administration would make the best endeavour to lobby support from Members on the proposed package. It was for Members to support or veto the proposed package. Regarding the formal endorsement of the “two methods” by the Central Authorities, he said that under Annex I and II to the Basic Law, if the “two methods” were supported by a two-thirds majority of all the LegCo Members and obtained the consent of CE, they were required to be approved by (for CE election) or reported to NPCSC for the record (for LegCo election).

26. Dr Fernando CHEUNG considered that the “one person, one vote” system was the best way to realize the principle of “balanced participation”. As the result of an opinion poll indicated that the majority of the people of Hong Kong supported that a timetable should be set for attaining universal suffrage, he urged the Administration to revise the package of proposals accordingly. He further asked whether the Administration considered that the people of Hong Kong did not deserve democracy.

27. Mr Ronny TONG said that the Administration had advised at a previous meeting that there was no room for amendment to the main elements of the proposals. He asked whether this was a directive from the CE or the Central Authorities.

28. SCA responded that the package of proposals was arrived at after 18 months of hard work. It was grounded on public views, had struck the right balance amidst the various views submitted by different sectors of the community, and had responded to the aspirations of the community for constitutional development. The Administration, however, still faced immense difficulties in reaching a consensus with LegCo. He pointed out that it was a political reality that any revised proposals would be equally controversial and could not easily gain the support from a two-thirds majority of all LegCo Members. He could not envisage that in the absence of supporting measures for implementing universal suffrage, a revised proposal with a timetable for universal suffrage would be supported by those Members who supported the package of proposals.

29. Mr LAU Kong-wah enquired whether the Administration had consulted DCs on their enhanced participation in the two elections. SCA responded that out of the 17 DCs visited, 14 DCs had expressed support for the proposal, two DCs were against, and one DC did not indicate its stance. Those against the proposal had expressed views similar to those of pan-democratic Members. The response of DC members were consistent with the results of opinion polls.

30. Mr LEE Wing-tat said that discounting appointed members, more than seven DCs had indicated objection to the package of proposals. He pointed out that so far, no appointed DC members and Members returned by FC had objected to the package of proposals because they were the ones who would benefit from the proposals. Similarly, none of them had demanded for a timetable for attaining universal suffrage,

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nor had they expressed support for the proposal to broaden the electorate base of EC and FCs when universal suffrage had been ruled out by NPCSC in 2007/08.

31. Mr CHIM Pui-chung pointed out that Mr LEE's comment was incorrect. At present, seven pan-democratic Members who were returned by FC elections had indicated that they did not support the package of proposals, representing 23% of the total membership of FC.

32. Ms Miriam LAU said that she did not object the proposal to broaden the electorate base of FCs. She said that some people were biased about the FC system. In her view, there was not much difference between Members returned by FCs and GCs in that they were both answerable to the public and had to protect the interests of the public.

33. Mr Andrew CHENG said that universal suffrage and the principle of "balanced participation" could only be realized through GC elections. He pointed out that when there was a conflict of interest between the public and the sector represented by an FC Member, it would be very difficult for the FC Member concerned to strike the right balance. In his view, retention of the FC system could not lead to universal suffrage.

34. Mr WONG Yung-kan said that a few FCs had been criticized by some Members for having a small electorate, among which was the Agriculture and Fisheries FC. He considered that such criticism unfair as these FCs had also made contributions to the society. He asked that in the event that the two motions were not passed, whether amendments would be subsequently proposed to reduce the representation of certain FCs in the two elections.

35. SCA responded that the Administration recognized the contributions made by FCs and it had no intention to introduce any changes to FCs, apart from the DC FC. The intention of setting up FCs was to balance the interests of different sectors and strata of the community. In the pursuit of democracy, the interests of small sectors had to be safeguarded.

36. Ms Emily LAU said that while democracy should address the interests of small sectors, it should not provide them with free lunch. As many political parties had supported the proposal to expand the electorate base of EC and FCs, the Administration should propose amendments in that regard. She further said that enhancing the participation of DCs in the two elections was different from expanding the electorate of EC and FCs. The incumbent DC members, if given the right to vote in the two elections in 2007/08, were merely voting for themselves. Their preference did not represent that of the voters because voters who had voted for them were not aware that they would be given voting right in the two elections in 2007/08. If the proposed package was to be implemented at all, the 18 DCs should be dissolved with all DC members re-elected before the next CE election.

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37. SCA responded that there were divided views among Members as to how FC electorate should be expanded. There was a view that corporate voting should be replaced by individual voting. There was also a view that corporate voting should be retained. There was a view that FC electorate should be expanded to cover the three million registered voters. He pointed out that it would not be easy for Members to reach a consensus on the issue. SCA further said that the next DC election would be held at the end of 2007, before the 2008 LegCo election. As regards the CE election, 42 EC members were already returned through election by DC members from among themselves under the existing arrangement. He noted that all DC members would be included in EC under the proposed package.

38. Mr James TIEN said that the term “traditional” FC was totally new to him. The business sector had expressed the view that the addition of DC FC seats was the addition of GC seats in disguise. He did not support the increase of DC FC seats to dilute the “traditional” FC seats as this would impact on the bicameral voting system. The business sector also supported that corporate votes should be retained. In his view, it was a matter for each FC to decide whether its electorate base should be expanded.

39. SCA said that the Administration was aware that the addition of DC FC seats would impact on the bicameral voting system. Nevertheless, the proposal to enhance the participation of DC members in the two elections was an effective way to realize a higher level of democratic representation. The Administration considered that for constitutional development to advance, that was a positive step.

40. Ms Margaret NG said that the Article 45 Concern Group would not support the two motions in the absence of a timetable for universal suffrage. Mr LEE Wing-tat said that the position of the Democratic Party was the same. In addition, the Democratic Party did not support membership of DCs by appointment. Mr LAU Kong-wah said that based on Members’ current response, the chance of having the two motions supported by a two-thirds majority of all LegCo Members was slim. He asked how the Administration would deal with the problem.

41. SCA said that the Administration was aware of the difficulties and would make the best endeavour to gain the support of Members. He reiterated that a timetable for universal suffrage could not be drawn in a matter of days without considering other factors, not to mention that such a proposal would not be readily accepted by a two-thirds majority of all LegCo Members. That was a political reality that Members had to consider. On the other hand, the proposed package was a step towards the ultimate aim of universal suffrage. The opinion polls recently conducted had continued to show that the proposed package was on the whole supported and accepted by the public. SCA pointed out that the package of proposals and a roadmap for universal suffrage were two separate issues. He believed that Members who supported the proposed package also saw a need for a roadmap for universal suffrage. To this end, the Administration had arranged for the issue on universal suffrage to be separately handled by CSD. SCA assured Members that the

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Administration had been pursuing democracy in the past and would continue the effort in the future. He urged Members to support the package of proposals.

Date of next meeting

42. Members noted that the next meeting would be held on 29 November 2005 at 8:30 am.

43. The meeting ended at 10:37 am.

Council Business Division 2  
Legislative Council Secretariat  
16 June 2006