

Panel on Constitutional Affairs

List of outstanding items for discussion

(position as at 14 October 2005)

**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. A background brief summarising past discussions held by Members was prepared for the Panel meeting on 21 March 2005 (LC Paper No. CB(2)1091/04-05(01)).

Pending
deliberation of
the
Subcommittee

At the meeting on 30 May 2005, members were dissatisfied with the progress reported by the Administration. A subcommittee was formed under the Panel to monitor and examine the issue of devising an appropriate statutory framework of bribery prevention applicable to CE, including in particular the review of POBO.

The Subcommittee held four meetings in the 2004-05 session. The Subcommittee requested the Research and Library Services Division to conduct a research on "Prevention of Corruption and Impeachment of Head of Government in Selected Places".

In his 2005-06 Policy Address, CE indicated that he accepted the need for his office to be subject to anti-corruption regulation. The Government would introduce legislation into LegCo as soon as possible to put in place the necessary legal regulatory procedures within the framework of the Basic Law.

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 on 5 October 2005 that the Administration would revert to the Panel once it was in a position to do so.

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.

To be decided
by the Panel

A background brief summarising past discussions held by Members was prepared for the Panel meeting on 18 July 2005 (LC Paper No. CB(2)2255/04-05(01)). The Administration advised the Panel that in determining whether a bill was an "important bill", CE would consider the circumstances of each case and the overall interests of Hong Kong. Some members disagreed that CE should be the authority to determine whether a bill was "important". Some members requested the Administration to inform LegCo in advance if a bill was determined by CE as an "important bill". The Panel agreed that the item should be further discussed in future if considered necessary.

4. Constitutional development

In January 2004, CE appointed a Task Force headed by CS with the Secretary for Justice and Secretary for Constitutional Affairs (SCA) as members, to take forward matters relating to constitutional development. The Task Force published four reports respectively in March, April, May and 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 (the "electoral methods") (LC Paper No. CB(2)215/04-05(01)).

On-going
discussion

The Administration advised on 5 October 2005 that the Task Force would release its Fifth Report in October 2005 to set out the Government's proposals on how the "electoral methods" should be amended.

5. Review of District Councils (DCs)

CE stated in his 2004 Policy Address that the Government would

To be confirmed

review the function and composition of DCs at a suitable time.

by CAB

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.

The Administration advised on 5 October 2005 that CAB and the Home Affairs Bureau had set up a working group to make preparations for the review. It was expected that the review would commence in the first quarter of 2006 and a consultation document would be issued.

6. Remuneration and post-office arrangements for CE

A background brief summarising past discussions held by Members was prepared for the Panel meeting on 20 June 2005 (LC Papers No. CB(2)1958/04-05(03)).

To be decided
by the Panel

Following the resignation of Mr TUNG Chee-hwa, the Independent Commission on Remuneration Package and Post-Office Arrangements for the Chief Executive of the HKSAR was established on 7 April 2005. The Commission published its report on 9 June 2005. The Administration briefed the Panel on its proposals at the meeting on 20 June 2005.

The Administration advised on 5 October 2005 that it would seek approval from the Finance Committee (FC) in November 2005 on the new remuneration package to be implemented for the third term CE in July 2007, and invite FC to note the financial implications arising from the provision of post-office services to former CEs. The Administration's paper was issued to members vide LC Paper No. CB(2)54/05-06(01) on 14 October 2005.

7. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005.

To be confirmed
by CAB

The Administration's position is that the introduction of a political party law will hinder the development of political parties. The Administration has advised that one of the guiding principles which the Task Force will adopt in putting together the Government's proposals regarding the "electoral methods" in 2007/08 is to broaden

the participation of the public and political groups in the electoral process. The Administration will also explore other financial schemes to facilitate political party development.

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 future. The Administration advised in writing in November 2004 that it was prepared to listen to members' views at future meetings.

9. Constitutional issues relating to prorogation of the Council

At its meeting on 23 April 2004, on the recommendation of the Committee on Rules of Procedure, the House Committee agreed to refer constitutional issues relating to the prorogation of the Council to this Panel for consideration. The Panel followed up the issue at the meetings on 21 February and 18 July 2005. A background brief summarising the discussions held by Members was prepared for the Panel meeting on 18 July 2005 (LC Paper No. CB(2)2255/04-05(03)).

To be decided
by the Panel

The Panel considered the written submissions of Professor Yash GHAI of The University of Hong Kong, the Hong Kong Bar Association and the Law Society of Hong Kong, and the Administration's response to these submissions. The Administration's position was that the existing arrangements were appropriate and should remain unchanged, i.e. the power for CE to prorogue the Council, determine the commencement and end dates of a LegCo session, and to call emergency Council meetings during prorogation.

The Panel would submit its report to the House Committee in November 2005.