

立法會
Legislative Council

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LC Paper No. CB(2)1334/07-08
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 17 December 2007, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present :

Dr Hon LUI Ming-wah, SBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon Bernard CHAN, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC

Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon Mrs Anson CHAN, GBM, JP

Member attending : Hon SIN Chung-kai, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Hon LEE Cheuk-yan
Hon WONG Yung-kan, SBS, JP

Public Officers attending : Item III

The Administration

Mr Henry TANG Ying-yen
Chief Secretary for Administration

Mr WONG Yan-lung
Secretary for Justice

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs

Ms Joyce HO Kwok-shan
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Item IV

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer for Registration and Electoral Office

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

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Watson CHAN
Head (Research & Library Services)

Mr Thomas WONG
Research Officer 4

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting

(LC Paper No. CB(2)589/07-08 - Minutes of meeting on 15 October 2007)

The minutes of the meeting held on 15 October 2007 were confirmed.

II. Items for discussion at the next meeting

(LC Paper No. CB(2)592/07-08(01) - List of outstanding items for discussion)

LC Paper No. CB(2)592/07-08(02) - List of follow-up actions

LC Paper No. CB(2)592/07-08(03) - Letter dated 26 November 2007 from Hon Emily LAU on "Arrangements for the District Council elections on 18 November 2007")

Items for discussion at the next meeting

2. Members agreed to discuss the following items at the next meeting on 21 January 2008 -

- (a) Amendments to Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation - proposed by Secretary for Constitutional and Mainland Affairs (SCMA);

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- (b) Mechanism for amending the Basic Law - proposed by Mr LEUNG Yiu-chung; and
- (c) Constitutional development - proposed by Ms Emily LAU as a regular item for discussion at regular Panel meetings.

(Post-meeting note: On the instruction of the Chairman, item (b) above has been deferred to the regular meeting in February 2008.)

Items for discussion at a future meeting

3. The Chairman said that in her letter dated 26 November 2007, Ms Emily LAU requested the Panel to discuss the electoral arrangements for the District Council (DC) election held on 18 November 2007 (the 2007 DC election) at the meeting in January 2008. He invited views from members.

4. SCMA said that it was a statutory requirement for the Electoral Affairs Commission (EAC) to submit a report on matters relating to the 2007 DC election to the Chief Executive (CE) within three months after the election, i.e. not later than 17 February 2008. He noted that Ms LAU had raised five points in her letter. To his understanding, the EAC had received complaints concerning the first four points which were related to electoral arrangements of the 2007 DC election. As the last point on exit poll was unrelated to electoral arrangements, SCMA said that he would relay Ms LAU's concern to the EAC and the Registration and Electoral Office (REO).

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5. Members agreed that subject to the availability of the EAC report, the Panel would discuss the "EAC Report on the 2007 DC election" at the meeting in February 2008.

6. In response to Mr TAM Yiu-chung, SCMA said that the EAC would submit a report on the Legislative Council by-election for the Hong Kong Island geographical constituency (GC) held on 2 December 2007 (the 2007 LegCo by-election) to the CE in early March 2008. Members agreed to discuss the "EAC Report on the 2007 LegCo by-election" at the meeting in March 2008.

III. Two Reports on constitutional development of Hong Kong

(Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012)

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Report on Public Consultation on Green Paper on Constitutional Development

Statement by the Chief Secretary for Administration on two Reports on constitutional development of Hong Kong at the Council meeting on 12 December 2007

LC Paper No. CB(2)592/07-08(04) - Press releases relating to the two Reports on constitutional development of Hong Kong issued on 12 December 2007)

Briefing by the Administration

7. The Chairman said that this item had been included in the agenda for this meeting in response to the request of the Administration and as a follow-up to the statement by the Chief Secretary for Administration (CS) on the following two Reports on constitutional development at the Council meeting on 12 December 2007 -

- (a) Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012 (the CE Report); and
- (b) Report on Public Consultation on Green Paper on Constitutional Development (the Green Paper Report).

8. CS highlighted the salient points covered in the two Reports. A copy of his speaking note is in the **Appendix** (in Chinese only).

Conclusion and recommendations of the two Reports

9. Some members, including Dr KWOK Ka-ki, Ms Emily LAU, Mr Ronny TONG, Mr LEUNG Yiu-chung and Ms Margaret NG, queried the basis of the conclusion made in paragraph 15 of the CE Report and paragraph 6.03 of the Green Paper Report. The two paragraphs stated that -

"Implementing universal suffrage for the CE first in 2012 is the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration. At the same time, implementing universal suffrage for the CE first by no later than 2017 will stand a better chance of being accepted by the majority in our community."

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Dr KWOK Ka-ki said that pan-democratic Members had all along asked for dual universal suffrage in 2012, but the CE Report concluded that universal suffrage for the CE should precede that for the LegCo. Ms Emily LAU pointed out that given that pan-democratic Members had received over 60% of the votes in the last LegCo election, their views should not be taken lightly. Ms Margaret NG said that if more than half of the public expected that dual universal suffrage should be implemented in 2012, she could not understand why two-thirds of LegCo and DC members should go against the wish of the people.

10. CS responded that the conclusion set out in paragraph 15 of the CE Report had taken into account the views of the LegCo, DCs, organisations and individuals of various sectors of the community, as well as the results of the various opinion polls. The Administration had also received about 182 000 written submissions and more than 150 000 signatures during consultation. The conclusion was drawn on the basis that -

- (a) no mainstream view had been formed on the models, roadmap and timetable for forming the LegCo by universal suffrage. The views on the future of functional constituencies (FCs) were diverse; and
- (b) consensus had begun to emerge on taking forward universal suffrage towards the direction of implementing universal suffrage for the CE first, to be followed by that for the LegCo.

11. SCMA supplemented that given that Members of the LegCo and the majority of DC members were returned by elections, their views represented those of the public. The views of LegCo and DC members on universal suffrage were summarised in paragraphs 5.08 to 5.10 of the Green Paper Report. In gist -

- (a) the written submissions from political parties/groups in the LegCo and independent Members revealed that in the LegCo, less than half of all the Members supported the implementation of dual universal suffrage in 2012. Half of all LegCo Members supported that universal suffrage for the CE should be implemented first by no later than 2017, in 2017 or after 2017, and that universal suffrage for the LegCo should follow thereafter; and
- (b) among the 18 DCs, more than two-thirds supported that universal suffrage for the CE should precede that for the LegCo. Regarding the specific universal suffrage timetable, more than two-thirds of the DCs supported the implementation of universal suffrage for the CE by no later than 2017 or in 2017, whereas universal suffrage for the LegCo should be implemented following that for the CE.

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12. Some members, including Dr KWOK Ka-ki, Dr YEUNG Sum, Mr Martin LEE, Mr Ronny TONG, Mr LEE Wing-tat, Ms Emily LAU, Mrs Anson CHAN, Mr CHEUNG Man-kwong, Mr LEUNG Kwok-hung, Mr SIN Chung-kai and Dr Fernando CHEUNG, expressed dissatisfaction and disappointment at the two Reports. They said that the CE had not honoured his electoral pledge that he would make the best endeavour to pursue universal suffrage during his term of office. They criticised that the Two Reports had not put forth final models for selecting the CE and forming the LegCo, or put up a strong case for dual universal suffrage in 2012 to reflect public's aspiration. They also criticised the Government for misleading the public to believe that it was possible to have universal suffrage in 2017. Dr YEUNG Sum and Mr CHEUNG Man-kwong expressed concern that the two Reports had not provided a timetable and roadmap for implementing universal suffrage for the LegCo election. Mr Ronny TONG said that the CE should indicate his stance on the matter, apart from merely reflecting the views collected from the consultation to the Standing Committee of the National People's Congress (NPCSC). He also queried the logic of implementing universal suffrage for the CE in 2017 when more than half of the public expected it to happen in 2012. Mrs Anson CHAN asked whether the Administration had ruled out the implementation of universal suffrage in 2012. Mr LEE Wing-tat said that the Liberal Party had expressed support for implementing universal suffrage for the CE in 2012. He pointed out that if the Administration tried hard, it should be able to gain the support of a few more Members so that a two-thirds majority support in the LegCo could be attained for implementing universal suffrage for the CE in 2012.

13. CS responded with the following points -

- (a) the third term CE and his Government were determined and had the sincerity to take forward universal suffrage as reflected in the publication of the Green Paper within 11 days after the commencement of the new term Government;
- (b) the conclusion of the CE Report had taken into account the views of the LegCo, DCs, various organisations and members of the public, and the statutory requirements in Articles 45 and 68 of the Basic Law; and
- (c) the two Reports had not provided a timetable for forming the LegCo by universal suffrage because the views on forming the LegCo and the future of FCs were still very diverse. However, the Administration was fully aware that setting the timetable for implementing universal suffrage for the CE and the LegCo would be conducive to the long term stability and development of Hong Kong.

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14. Members noted that the purpose of the CE Report was to seek confirmation from the NPCSC on whether the electoral methods for selecting the CE and for forming the LegCo in 2012 could be amended. Dr YEUNG Sum and Mr CHEUNG Man-kwong asked why the CE Report had not requested the NPCSC to indicate its position on implementing universal suffrage for the CE in 2017. Mr Martin LEE said that the approach adopted by the Administration seemed to provide an opportunity for the NPCSC to disapprove the implementation of universal suffrage every four to five years.

15. Mr Howard YOUNG said that while he felt that the two Reports had reflected public aspiration, the Administration should be more proactive in seeking the views of the NPCSC on implementing universal suffrage for the CE in 2017.

16. CS said that since the establishment of the Hong Kong Special Administrative Region (HKSAR), the Administration had promoted extensive discussions in the community on the issue of universal suffrage with a view to narrowing differences in opinions. Against this background, the Administration released the Green Paper on Constitutional Development in July 2007 for public consultation. There was general expectation within the community that the electoral system of the HKSAR could be further democratised and that the ultimate aim of universal suffrage could be attained as early as possible in accordance with the Basic Law. The purpose of the CE Report was to faithfully reflect the outcome of the public consultation and the situation in Hong Kong to facilitate deliberations by the NPCSC.

17. SJ supplemented with the following points -

- (a) based on the Interpretation adopted by the NPCSC on 6 April 2004 regarding Article 7 of Annex I and Article III of Annex II to the Basic Law, should there be a question as regards whether there was a need to amend the methods for selecting the CE and for forming the LegCo, the CE should make a report to the NPCSC; and the NPCSC should, in accordance with Articles 45 and 68 of the Basic Law, make a determination in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. Against this background, the CE had discharged his constitutional duty to make a report on the actual situation of the HKSAR to the NPCSC and to seek confirmation from the NPCSC on whether Annexes I and II to the Basic Law could be amended;
- (b) Chapter 5 of the Green Paper Report consolidated the written proposals on the roadmap and timetable for implementing universal suffrage for selecting the CE and for forming the LegCo put forth by LegCo Members, motions passed by the 18 DCs and the relevant views, findings of the relevant opinion polls, and written submissions put forth by organisations and individuals. In his Report, the CE had

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faithfully reflected the views collected and summarised in paragraph 13(1) that "[t]he people of Hong Kong have keen expectation for attaining the aim of universal suffrage in accordance with the Basic Law. Members of the public, political parties, LegCo Members, District Councils and different sectors of the community support that the plan for implementing universal suffrage, particularly the universal suffrage timetable, should be determined at an early date. This can help minimize internal debates on constitutional development and will be conducive to the long term stability and development of Hong Kong."; and

- (c) although the scope of the CE Report was meant to address the need to amend Annexes I and II to the Basic Law to facilitate electoral changes in 2012, the CE had taken the opportunity to also reflect the observation that implementing universal suffrage for the CE first by no later than 2017 would stand a better chance of being accepted by the majority in the community. As to whether the decision made by the NPCSC would cover the situation in 2017, the Administration was not in a position to tell and would not attempt to speculate.

18. SCMA supplemented that there were five steps leading to the amendments to the two electoral methods, namely -

- (a) the CE to make a report on the actual situation of the HKSAR to the NPCSC and to seek confirmation from the NPCSC on whether Annexes I and II to the Basic Law could be amended;
- (b) the NPCSC to make a decision based on the report of the CE;
- (c) the Government of the HKSAR to introduce legislative proposals for amending the electoral methods for consideration by the LegCo;
- (d) the CE to give his consent on the legislative proposals passed by the LegCo; and
- (e) the legislative proposals to be reported to the NPSCS for approval or for the record.

SCMA stressed that the Administration was presently undergoing the first step of the five-step process. The purpose of the CE Report was to allow the NPCSC to have a full picture of the views on universal suffrage inside and outside LegCo before making a decision. Members and the public would have the opportunity to further discuss details of the electoral methods in subsequent steps.

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19. Ir Dr Raymond HO said that he supported universal suffrage for the CE to precede that for the LegCo. He asked about the weighting given by the Administration to the views of DC members as compared with those of other parties. He also asked about the measures to be taken by the Administration to broaden the electorates of FCs in the event that the NPCSC decided that Annexes I and II to the Basic Law could be amended.

20. CS responded that the Administration did not attach any special weighting to the views given by any groups or organisations. The Administration would consider the latter question when the NPCSC confirmed that Annex I and Annex II to the Basic Law could be amended.

21. Dr Fernando CHEUNG asked why the Administration considered that the conditions in Hong Kong were not ready for implementing universal suffrage in 2012. He also queried why the people of Hong Kong should be deprived of the basic right of electing the CE and Members of the LegCo by one-person-one-vote. Mr Ronny TONG pointed out that the International Covenant on Civil and Political Rights (ICCPR) provided that every citizen should have the right and opportunity to vote and be elected at genuine periodic elections, and the Article applied to Hong Kong.

22. CS responded that the Administration had already made clear in the Green Paper on Constitutional Development that any universal suffrage model should comply with the principles of "universal" and "equal" suffrage. The Administration noted that the universal suffrage system commonly adopted was a one-person-one-vote system which could take the form of direct or indirect election.

23. SCMA said that upon ratification of the ICCPR in 1976, a reservation had been made reserving the right not to apply Article 25(b) of the ICCPR to Hong Kong. After the establishment of the HKSAR, in accordance with the Central People's Government notification to the United Nations Secretary-General in June 1997 and Article 39 of the Basic Law, that reservation continued to apply to Hong Kong.

24. Mr SIN Chung-kai sought clarification on whether the Administration would re-introduce the package of proposals for selecting the CE and forming the LegCo put forth by the Administration in October 2005 as rumoured. CS responded that the Administration would not comment on rumours.

Consultation and opinion polls

25. Some members, including Mr Ronny TONG, Mr LEE Wing-tat Ms Emily LAU and Mr LEUNG Yiu-chung, said that the two Reports reflected only the results of selected opinion polls. Mr Ronny TONG said that in the opinion polls conducted by the 22 pan-democratic Members over the past six months on some 12 000 members of the public, over 50% of the respondents expressed support

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for the proposal on universal suffrage put forth by pan-democratic Members and more than 60% of the respondents supported dual universal suffrage by 2012. However, the Administration had all along attached more importance to the views of the business sector than that of the community at large. Mr LEE Wing-tat pointed out that although the views of DC members should be respected, they could not reflect the aspiration of the wider community for dual universal suffrage in 2012. Ms Emily LAU said that the results of opinion polls were sometimes contradictory. For example, while various opinion polls had indicated that more than half of the respondents supported the implementation of dual universal suffrage in 2012, various opinion polls had also indicated that more than half of the respondents supported that universal suffrage for the CE should precede that for the LegCo. Ms LAU said that in view of the discrepancies, the Administration should consider conducting another opinion poll on a larger scale. Mr LEUNG Yiu-chung asked why the Administration had attached more importance to the 130 000 signatures which had indicated support for the implementation of universal suffrage for the CE preceding that for the LegCo than the views of the majority of the public who supported dual universal suffrage in 2012.

26. SCMA responded that the two Reports summarised the general sentiment of the public for universal suffrage. In fact, not all the opinion polls had indicated that more than half of the respondents supported the implementation of universal suffrage in 2012. For instance -

- (a) on the models for universal suffrage, an opinion poll conducted from 2 to 5 October 2007 by the Public Opinion Programme at the University of Hong Kong had indicated that while 58% of the respondents supported the proposal of forming the nominating committee by 1 200 members (comprising 800 members of the Election Committee and 400 directly elected DC members) and setting the nomination threshold at 50 members of the nominating committee, only 47% of the respondents supported the mixed method for forming the LegCo, i.e. half of the seats would be returned by a "single seat single vote" simple majority system and the remaining half would be returned through elections by the "proportional representation system" so that each voter could cast two votes; and
- (b) on the timetable for universal suffrage, an opinion poll conducted from 2 to 5 October 2007 by the Public Opinion Programme at the University of Hong Kong had indicated that 58% and 67% of the respondents supported the implementation of universal suffrage for the CE and the LegCo in 2012 respectively; but another opinion poll conducted from 20 to 24 September 2007 by the Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong, had indicated that 51.4% and only 39.8% of the respondents supported the implementation of universal suffrage for the CE and the LegCo in 2012 respectively.

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27. Ms Margaret NG said that the sequence of questions posed in a questionnaire would affect the result of opinion polls. For instance, if the questionnaire asked respondents to give views on whether dual universal suffrage should be implemented in 2012 before asking them to give views on whether universal suffrage for the CE should precede that for the LegCo, the answers given by respondents would have been different. She further sought views of the Administration on an article written in the Hong Kong Economic Journal by its former editor who had remarked that the implementation of universal suffrage for the CE ahead that for the LegCo would undermine the principle of check-and-balance enshrined in the Basic Law.

28. CS responded that the Administration would not comment on an individual's article in a newspaper. Referring to the opinion poll conducted by Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong, from 20 to 24 September 2007, SCMA said that the first and third questions of the questionnaire were on universal suffrage for the CE and the LegCo in 2012 respectively. The fourth question was on implementing universal suffrage for the CE first, and 55.3% and 4.6% of the respondents had indicated support and strong support respectively.

Motion proposed by Dr YEUNG Sum

29. Noting that the NPCSC had decided to put the CE Report on the agenda for its 31st meeting to be held between 23 and 29 December 2007, some members, including Ms Audrey EU, Ms Margaret NG, Mr Ronny TONG, Mr LEUNG Kwok-hung and Mr Martin LEE, said that the Panel should hold a special meeting with CS before 23 December 2007 to further discuss the matter. Dr YEUNG Sum proposed the following motion -

"本委員會要求司長於 2007 年 12 月 23 日之前出席本委員會就政府向人大作出呈請的會議"

(English translation: "That this Panel requests that CS should attend a meeting of this Panel held before 23 December 2007 to discuss the Government's report to NPCSC.")

30. The Chairman put the motion to vote. Ms Emily LAU requested a division.

31. The Clerk read out the names of members who were in favour of the motion, those who were against the motion, and those who abstained from voting -

- (a) 13 members voted for the motion - Mr Martin LEE, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Mr Ronny TONG and Mrs Anson CHAN;

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- (b) no member voted against the motion; and
- (c) 14 members abstained from voting - Dr LUI Ming-wah, Ir Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr Daniel LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU and Mr KWONG Chi-kin.

32. The Chairman declared that the motion proposed by Dr YEUNG Sum was carried.

(Post-meeting note: The special meeting was held on 19 December 2007 from 8:30 am to 10:00 am.)

IV. Counting arrangements for the 2008 Legislative Council election

(LC Paper No. CB(2)592/07-08(05) - Background Brief prepared by the Legislative Council Secretariat on "Vote counting arrangements for elections")

LC Paper No. CB(2)592/07-08(06) - Administration's paper on "Arrangements for the Counting of Votes for the 2008 Legislative Council Election")

33. Chief Electoral Officer (CEO) introduced the paper which set out the proposed vote counting arrangements for the 2008 LegCo election.

Counting arrangements for 2008 LegCo election

34. Mr LAU Kong-wah and Ms Audrey EU expressed support for the decentralised counting arrangement whereby polling stations would be converted into counting stations immediately after the close of the poll. The arrangement would expedite the vote counting process and allow candidates to know the preferences of electors at individual polling stations.

35. SCMA said that the experience in the 2007 LegCo by-election, which involved 97 counting stations, had proven that decentralised counting was efficient. The REO was consolidating its experience gained from the 2007 DC election and the 2007 LegCo by-election in preparation for the 2008 LegCo election, which would involve some 500 polling stations.

36. Ms Emily LAU said that the counting procedure should be streamlined and the time for converting a polling station into a counting station should be shortened. In addition, there should be enough seats to allow candidates, their election or counting agents to observe the count. She said that in order to enhance transparency, the Administration should consider reading out the choice of candidates marked on the ballot papers as they were counted.

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Admin 37. In response, both SCMA and CEO expressed concern that Ms LAU's proposal would prolong the counting process. Addressing Ms LAU's concern on transparency, CEO said that candidates, their election agents and counting agents were allowed to be present at the counting of votes. Nevertheless, she would relay Ms LAU's proposal to the EAC for consideration.

38. Ms Emily LAU, Mr LEUNG Yiu-chung and Mr WONG Kwok-hing expressed concern about the accuracy of the process of sorting and counting of ballot papers. CEO explained that counting staff would sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes labelled with the chosen candidate number on the counting tables. Candidates, their election agents and counting agents could observe the process.

39. Ms Emily LAU expressed concern that polling/counting staff in the recent elections did not appear to be sufficiently familiar with the counting procedures. She asked about the training programme provided to them. Mr LEUNG Yiu-chung echoed her view and said that some Presiding Officers of the 2007 DC election were inexperienced in determining the validity of ballot papers, resulting in inconsistent practices. He also noticed that it took a longer time for some polling stations to be converted into counting stations.

40. SCMA said that a majority of polling/counting officers recruited from the civil service were experienced as they had participated in past elections. Since the 2004 LegCo election, the REO had enhanced training by incorporating more practical exercises and problem-solving drills in the training programmes. CEO supplemented that apart from attending a 1.5 day training course, Presiding Officers were given an operational manual and a training video in a compact disc to help them familiarise with the procedures for managing the polling and counting stations. There was also a rehearsal on the conversion of a polling station into a counting station one day before the polling day. The training course would be further enhanced in future.

41. Ms Margaret NG referred to the centralised counting arrangement for FCs where ballot papers from different polling stations would be mixed before they were counted in order to preserve the secrecy of votes, and expressed concern that little improvement had been made to expedite the counting process. She also expressed concern that polling/counting staff had adopted inconsistent practices during the counting process. For instance, some staff had taken great care of the ballot boxes to ensure integrity of ballot papers while others had not. She asked whether polling/counting staff were given flow charts of the work processes and guidelines during training. She requested the Administration to provide copies of these flow charts and guidelines issued to staff in the 2004 LegCo election for reference of members.

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42. CEO responded that guidelines were provided to the counting staff for them to follow. As for speeding up the counting process, the counting of GC votes had been decentralised and past experience had proven that decentralised counting was more efficient than centralised counting. In the 1998 LegCo election, counting for both GCs and FCs was conducted at the central counting station and the counting for GCs took 18.5 hours to complete after the close of poll. In the 2004 LegCo election, vote counting for GCs was decentralised to individual polling stations. The counting for GCs was completed at around 6:00 am the following day. However, the malfunctioning of the Integrated Voice Response System which necessitated a manual compilation of statistics had delayed the announcement of election results in the 2004 LegCo election.

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43. SCMA said that the EAC would promulgate guidelines on the election-related activities in respect of the 2008 LegCo election in due course. By convention, it would also prepare a paper highlighting the improvements to be made for the 2008 LegCo election, in the light of the experience of the previous elections. He would relay Ms Margaret NG's request to the EAC for consideration.

44. Mr Ronny TONG said that a fair, open and transparent vote counting process was more important than an efficient counting process. He expressed concern that independent candidates and candidates belonging to small political parties/groups would not have the resources to deploy a sufficient number of agents to monitor the count at each and every station in GC elections, given that some 500 polling stations would be involved. He noted that the ballot papers of a small polling station (defined as polling station with less than 200 registered electors) would be delivered to another polling station within the same constituency for counting. There had been suggestions to increase the "200 registered electors" threshold for defining small polling stations to "500 registered electors" and "7 000 registered electors" respectively, with a view to protecting the secrecy of votes. Mr TONG pointed out that while increasing the threshold would also reduce the number of counting stations, there would still be some 200 counting stations if the threshold of "7 000 registered electors" was adopted. As an alternative to help candidates with relatively less resources to monitor the counting process, he suggested that the Administration should consider conducting an automatic recount in a polling station in the event that the difference in the number of votes received by two candidates was very close, say less than 10%.

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45. SCMA said that he would relay Mr TONG's concerns and suggestion to the EAC and REO for consideration.

46. Mr WONG Kwok-hing expressed concern that the polling station for a constituency in North Point for the 2007 LegCo by-election held on 2 December 2007 was different from that for the 2007 DC election held on 28 November 2007, and had caused confusion to electors. He said that the REO should avoid changing venues for polling stations.

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47. SCMA responded that electors would be allocated to the same polling stations as far as possible. However, the 2007 LegCo By-election was an unexpected event. CEO supplemented that the REO had tried their best to secure the same polling stations for the two elections. However, some polling stations which had been used as a polling station for the 2007 DC election were not available on the day of the 2007 LegCo by-election due to various reasons. The REO had no choice but to change the polling venue.

2007 DC election

48. Referring to the 2007 DC election, Mr LAU Kong-wah expressed concern about the delay in announcing voting results of some main counting stations where the ballot papers cast at small polling stations within the same constituency were delivered and mixed before counting. He said that this problem should be addressed in the 2008 LegCo election to ensure efficient counting of votes.

49. Ms Audrey EU expressed concern that in the 2007 DC election, although the Peak Constituency had completed the ballot paper count and recount before 12:00 midnight and there was no dispute on which candidate had received the highest number of votes, the REO had taken another two hours to announce the result. She said that during that period, the polling/counting staff had to stay idly in the polling station. She asked why there was a delay in announcing the voting result and how much resources had been wasted as a result, e.g. overtime expenses.

50. Addressing the concern about the time taken to announce the voting results of the 2007 DC election, CEO explained that the REO was required to verify the statistics reported to the Statistical Information Centre with the results of the count conducted in the respective stations before declaring the results of the vote count. The overall vote counting and verification process had taken 5.5 hours to complete after the close of poll. As the election results from the 481 counting stations flooded into the Statistical Information Centre at about the same time, the voting results of individual constituencies could only be announced one by one after verification. The election result of the Peak Constituency was in the queue and had to take its turn for verification. CEO further said that the polling/counting staff was required to wait for completion of the count and confirmation that there was no request for re-count before they could stand down. For the 2007 DC election, the total expenditure on remuneration paid on a hourly basis for staff who had worked beyond 1:30 a.m. on the day following the polling day had yet to be calculated. Having learnt from the experience of the 2007 DC election, the REO had increased manpower to conduct the count for the 2007 LegCo by-election and streamlined the vote counting process by adopting a two-queue system. One queue handled vote counts reported to the Statistical Information Centre which did not require follow-up action and another queue handled vote counts which required further action. The REO would continue to improve the vote counting arrangements in future elections.

Action

51. In response to Mr LEUNG Kwok-hung's concern on the delay in announcing the voting result for the Peak Constituency, SCMA envisaged that the EAC would address the issue in its report to the CE. He added that the election in Hong Kong had all along been conducted in a fair, open and transparent manner.

V. System of declaration of investments and interests by Principal Officials under the Accountability System

(LC Paper No. CB(2)592/07-08(07) - Extract from the draft minutes of meeting on 25 July 2007

IN02/07-08 - Information Note on "Registration and disclosure of the occupation of the spouses of principal officials in selected places" prepared by the Research and Library Services Division

LC Paper No. CB(2)592/07-08(08) - Administration's paper on "System of Declaration of Investments and Interests by Principal Officials under the Accountability System")

52. Members agreed to defer discussion of the item to the next meeting.

(*Post-meeting note* : On the instruction of the Chairman, the item has been further deferred to the regular meeting in February 2008.)

53. The meeting ended at 5:35 pm.

Council Business Division 2
Legislative Council Secretariat
14 March 2007