

立法會
Legislative Council

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LC Paper No. CB(2)944/09-10
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 19 October 2009, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Hon Albert HO Chun-yan
- Dr Hon Margaret NG
- Hon CHEUNG Man-kwong
- Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Dr Hon Philip WONG Yu-hong, GBS
- Hon WONG Yung-kan, SBS, JP
- Hon LAU Kong-wah, JP
- Hon Miriam LAU Kin-yee, GBS, JP
- Hon Emily LAU Wai-hing, 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 Jeffrey LAM Kin-fung, SBS, JP
- Hon CHEUNG Hok-ming, GBS, JP
- Hon WONG Ting-kwong, BBS, JP
- Hon Ronny TONG Ka-wah, SC
- Hon CHIM Pui-chung
- Prof Hon Patrick LAU Sau-shing, SBS, JP
- Hon Cyd HO Sau-lan
- Dr Hon LAM Tai-fai, BBS, JP
- Hon CHAN Kin-por, JP
- Hon Tanya CHAN
- Dr Hon Priscilla LEUNG Mei-fun
- Hon CHEUNG Kwok-che
- Hon WONG Kwok-kin, BBS
- Hon WONG Yuk-man
- Hon IP Kwok-him, GBS, JP
- Hon Mrs Regina IP LAU Suk-yee, GBS, JP
- Dr Hon PAN Pey-chyou
- Dr Hon Samson TAM Wai-ho, JP

Member attending : Hon Paul CHAN Mo-po, MH, JP

Members absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Paul TSE Wai-chun

Public Officers attending : Item II

The Administration

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

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

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

Mr Howard CHAN Wai-kee
Deputy Secretary for Constitutional and Mainland Affairs

Item III

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 Hubert LAW Hin-cheung
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mr CHENG Man-leung
Senior Curriculum Development Officer (Chinese Language Education), Education Bureau

Mrs Anissa WONG
Senior Education Officer (Education Commission), Education Bureau

Mr Jimmy CHAN
Chief Assistant Secretary (Works)6, Development Bureau

Miss Annie HO
Deputy Executive Director (Operations), Vocational Training
Council

Ms Rebecca PUN
Executive Director, Employees Retraining Board

Dr Christina NG
Senior Manager (Course Development), Employees Retraining
Board

Mr Christopher TO
Executive Director, Construction Industry Council

Mr Leonard LAW
Chief Executive Officer (Administration), Innovation and
Technology Commission

Ms Zorina WAN
Senior Administrative Officer (SD)2, Office of the Government
Chief Information Officer

Miss Kathryn LAU
Acting Principal Entertainment Standards Control Officer (Film),
Television and Entertainment Licensing Authority

Mr SIN Kwok-kei
Telecommunications Engineer (External Affairs)1, Office of the
Telecommunications Authority

**Clerk in
attendance** : Miss Flora TAI
Chief Council Secretary (2)3

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

Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Items for discussion at the next meeting

[Appendices II and III to LC Paper No. CB(2)9/09-10]

Referring to the List of outstanding items for discussion [Appendix II to LC Paper No. CB(2)9/09-10], Secretary for Constitutional and Mainland Affairs (SCMA) updated the Panel on Constitutional Affairs (CA Panel) on the latest development of the following items -

- (a) Constitutional development - the consultation document on the methods for selecting the Chief Executive (CE) and for forming the Legislative Council (LegCo) (the two electoral methods) in 2012 would be published within November 2009. The Administration would brief the CA Panel and commence extensive public consultation thereafter;
 - (b) Review of the Personal Data (Privacy) Ordinance (Cap. 486), implementation of the Race Discrimination Ordinance (Cap. 602) and reports submitted to the United Nations (UN) - these items were making steady progress and the Administration would revert to the CA Panel in due course; and
 - (c) District Council (DC) election - the Administration would review the number of elected seats for the Fourth Term DC. Pending the availability of the population projections for 2011, the Administration would revert to the CA Panel in the second quarter of 2010.
2. SCMA proposed and members agreed that the item "Hearing of the Report of the Hong Kong Special Administrative Region (HKSAR) under the International Convention on the Elimination of All Forms of Racial Discrimination" be discussed at the next regular meeting to be held on 16 November 2009.
3. The Chairman said that arising from the policy initiative to distribute cash coupons to residential electricity account holders to replace incandescent light bulbs with energy-saving bulbs, Ms Cyd HO had written to him requesting the CA Panel to discuss the system of declaration of interests by CE. In her letter, Ms Cyd HO had expressed concern about CE's failure to declare his relation with his in-law who was engaged in the light bulb business. The Chairman invited views from members.

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4. Ms Audrey EU, Chairman of the Panel on Environmental Affairs (EA Panel), informed members that the EA Panel would hold a meeting on 2 November 2009 to discuss the policy initiative relating to energy-saving bulbs. The system of declaration of interests, however, was outside the purview of the EA Panel.

5. Ms Cyd HO said that the policy initiative and the declaration system were two separate issues. She hoped that CE would attend the next CA Panel meeting on his own initiative to give an account of the incident. SCMA said that CMAB could prepare a paper on the system of declaration of interests by CE and officials under the Political Appointment System for discussion at the next meeting. Members agreed that the Panel would follow up on the relevant issue at its next meeting.

6. Ms Emily LAU said that the policy initiative regarding energy-saving bulbs and the issue regarding declaration of interests were related. Apart from providing a paper on the system of declaration of interests for discussion by the CA Panel, the Administration should also provide a chronology of events leading to the decision of the policy initiative relating to energy-saving bulbs to facilitate members understanding the incident in whole. SCMA undertook to relay members' concerns to CE and discuss with the Secretary for the Environment the information to be provided to the CA Panel.

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II. Briefing on the Chief Executive's Policy Address 2009-2010

[LC Paper No. CB(2)32/09-10(01), The 2009-2010 Policy Address – "Breaking New Ground Together" and The 2009-2010 Policy Agenda booklet]

7. SCMA briefed Members on the new and on-going initiatives of the Constitutional and Mainland Affairs Bureau (CMAB) set out in the 2009-2010 Policy Agenda.

(Post-meeting note: The speaking note of SCMA was issued to members vide LC Paper No. CB(2)74/09-10(01) on 20 October 2009.)

Constitutional development

8. Mr CHEUNG Man-kwong said that the Democratic Party (DP) was very concerned over when universal suffrage would be implemented in Hong Kong. DP considered that the best time to implement universal suffrage would be 2012. The Administration, however, had advised that the election of CE and all the Members of LegCo by universal suffrage might take place in 2017 and 2020 respectively. In this connection, DP was concerned about the roadmap to universal suffrage and the two key issues it entailed. First, the Administration

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should ensure that in conformity with the principle of gradual and orderly progress, any nomination threshold for selecting CE by universal suffrage in 2017 should not be higher than that for the 2007 CE election. Second, the Administration should clarify whether the functional constituency (FC) system on the basis of "one-person-one-vote" would still be compatible with the principle of "universal" and "equal" suffrage if there was any restriction on the right to be elected i.e. the candidates must come from a particular sector.

9. SCMA responded that the Administration published the Green Paper on Constitutional Development (the Green Paper) in July 2007 and consulted the public on the models for electing CE and for forming LegCo by universal suffrage. On 29 December 2007, the Standing Committee of the National People's Congress (NPCSC) made a decision on issues relating to the two electoral methods in 2012 and on issues relating to universal suffrage (the NPCSC Decision). Having regard to the NPCSC Decision, the aim of the current term Government was to determine within its tenure the two electoral methods for 2012, so as to inject new democratic elements to pave way for achieving universal suffrage. The CE elected in 2012 would work with the Fifth LegCo on the arrangement for implementing universal suffrage for the 2017 CE election; whereas the CE elected by universal suffrage would work with the Sixth LegCo on the arrangement for implementing universal suffrage for the 2020 LegCo election. Given that the NPCSC Decision had made clear that the election of CE in 2017 would be implemented by universal suffrage under the one-person-one-vote system, members could discuss how the election committee for 2012 should be formed, and whether and how it should be transformed to the nominating committee in 2017. If consensus could be reached on these issues, the outstanding issue which remained for the electoral method for CE in 2017 would be the nomination procedure. In the Green Paper, the Administration had already made clear that in considering the model for forming LegCo by universal suffrage, the principles of "universal" and "equal" suffrage must be adhered to.

10. Noting that the current term government intended to inject new democratic elements into the electoral methods for 2012 to pave way for the implementation of universal suffrage, Mr IP Kwok-him enquired about the relationship between the new democratic elements injected in 2012 and the electoral method for forming LegCo in 2016.

11. SCMA explained that the current term government would strive to broaden the scope of political participation in drawing up the proposals for the two electoral methods. The CE elected in 2012 would work with the Fifth LegCo on the electoral methods for forming LegCo in 2016 and for electing CE in 2017. The following five steps would be evoked during the whole process if amendments would be made to the two electoral methods -

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- (a) according to the "Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law" made by NPCSC on 6 April 2004, CE should make a report to NPCSC as regards whether there was a need to amend the methods for selecting CE and for forming LegCo under Annex I and Annex II to the Basic Law respectively;
- (b) NPCSC should, in accordance with Articles 45 and 68 of the Basic Law, make a determination on the need to amend the two electoral methods in the light of the actual situation in HKSAR and in accordance with the principle of gradual and orderly progress;
- (c) if there was a need to amend the two electoral methods, such amendments must be put forth by the HKSAR Government and endorsed by a two-thirds majority of all LegCo Members;
- (d) CE should consent to the amendments made by LegCo; and
- (e) CE should report the amendments to NPCSC for approval or for the record respectively.

12. Mr Ronny TONG sought views from SCMA about CE's remarks that he could not make unilateral decisions on the models for universal suffrage. Mr TONG considered CE's remarks misleading as CE and his Government was the only party who could propose models for universal suffrage, while LegCo did not have the prerogative to amend these models.

13. SCMA responded that CE was describing the constitutional arrangements in amending the two electoral methods. According to the Basic Law, any amendments to Annexes I and II to the Basic Law regarding the two electoral methods would involve the participation of the Executive and the Legislature. The Government had the constitutional duty to put forward a package of proposals for the two electoral methods for LegCo's consideration, while LegCo had the constitutional duty to support or veto the proposals. The arrangements reflected that there was check-and-balance and cooperation between the Executive and the Legislature.

14. Mr Ronny TONG enquired about the deadline for LegCo to endorse the two motions to, respectively, amend Annexes I and II to the Basic Law regarding the two electoral methods for 2012.

15. SCMA responded that the Administration would conduct public consultation on the two electoral methods in November 2009. During the public consultation period, the Administration would listen widely to the views of LegCo, different political parties and groups, as well as individuals and organisations of

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different sectors of the community through various consultation activities. The Administration would then analyse and consolidate the views received. As there might be divergent views expressed, the Administration was not in a position to commit a timetable on the formulation of a package of proposals for the two electoral methods for 2012 at this stage. Nevertheless, the Administration would waste no time to present to LegCo the proposed amendments to Annexes I and II to the Basic Law. The Administration hoped that the whole process could be completed within 2010.

16. Mr Albert HO said that during the CE's Question and Answer Session on 15 October 2009, CE had said that by virtue of the NPCSC Decision, the timetable to implement universal suffrage for the CE election in 2017 and the LegCo election in 2020 had been made by legislative means. Mr HO considered CE's remarks about "legislative means" misleading. He pointed out that according to the NPCSC Decision, universal suffrage for electing CE and for election of all the Members of LegCo by universal suffrage "might" respectively take place in 2017 and thereafter. The universal suffrage timetable was therefore subject to change. He sought views from SCMA on CE's remarks.

17. SCMA responded that CE's remarks conveyed two important messages. First, the NPCSC Decision was made at the constitutional level and was legally binding. Second, the NPCSC Decision which stated that CE might initiate, at an appropriate time, the five steps set out in paragraph 11 above in order to implement universal suffrage for the CE election in 2017 and the LegCo election in 2020 carried legal implications.

18. Ms Audrey EU raised the following points -

- (a) CE had recently said that with the attainment of a timetable for universal suffrage which was an important milestone in the history of Hong Kong, he had honoured his electoral pledge. She quoted CE's electoral pledge which stated that he would resolve the disputes relating to universal suffrage, i.e. the model, roadmap and timetable for universal suffrage, during his term of office once for all so that the next term CE would no longer be required to deal with the matter. As the current term Government only intended to deal with the two electoral methods for 2012, it was questionable whether CE was lying when he said that he had honoured his electoral pledge;
- (b) pan-democratic Members were still awaiting CE's reply on the meeting date to discuss the two electoral methods for 2012. She requested SCMA to relay to CE that pan-democratic Members would like to meet with him before the end of October; and

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- (c) the Administration should advise members on the procedural steps and their timeframe following the conclusion of the consultation document and before the presentation of the two motions for LegCo's endorsement to amend the two electoral methods for 2012.

19. SCMA responded with the following –

- (a) CE's commitment to deal with the issue of universal suffrage was reflected in the publication of the Green Paper 11 days after he assumed office as the third term CE and the attainment of a timetable for universal suffrage from NPCSC within six months. As none of the previous terms of Government preceding the third term Government was able to achieve that, it was indeed an important milestone for Hong Kong. The third term Government would strive to enhance the democratic elements in the two electoral methods for 2012 with a view to forging consensus;

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- (b) he would relay pan-democratic Members' request for a meeting with CE to the CE's office; and
- (c) pending the response and diversity of views to be received during the public consultation exercise and the time required to conclude its findings, the Administration could not tell at this stage the timetable and the procedural steps in between the conclusion of the public consultation exercise and the presentation of the relevant motions to LegCo.

20. Mr WONG Yuk-man said that the League of Social Democrats (LSD) was seeking judicial review on whether corporate votes provided in the FC elections were constitutional. If LSD won the court case, the electoral method for returning FC Members by corporate votes would be rendered ineffective and he would expect about 25% of the incumbent Members would be affected as a result. The outcome of the court case would also impact on the preparation of the consultation document on the electoral methods for 2012. In this connection, the Administration could no longer evade the question of the future of FC system. He asked whether the Administration had made any preparation for the possibility of losing the court case. SCMA responded that the Administration had already provided a paper to the court explaining the composition of LegCo and its conformity with the Basic Law.

Political Appointment System

21. Mr WONG Kwok-hing enquired about the follow-up action taken by the Administration since the passage of the motion moved by Mr CHEUNG Man-kwong on "Monitoring the post-retirement employment of CE,

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principal officials (POs) under the accountability system and civil servants at directorate level with private sector organisation" at the Council meeting on 2 February 2005.

22. On post-office employment control for CE and POs, SCMA responded that subsequent to the passage of the motion, the Administration announced in April 2005 the setting up of -

- (a) an Independent Commission to consider and make recommendations on the remuneration package and post-office arrangements for CE; and
- (b) an Advisory Committee to advise politically appointed POs on their employment plans after leaving office.

Subsequently, after considering the Independent Commission's recommendations in its report of June 2005, the Government had expanded the terms of reference of the Advisory Committee to cover the post-office employment or appointment of former CEs and politically appointed officials, expanded its membership from three to five, and renamed it as the "Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials". At present, the purview of the Advisory Committee also covered officials at the two additional political layers, namely Under Secretary and Political Assistant, created in April 2008.

23. Separately, on the system of declaration of interests, SCMA said that, having regard to the views expressed by members at the CA Panel meeting in July 2008, political appointed officials making the declarations were required to declare the name and occupation of their spouse in the forms available for public inspection.

Hong Kong/Guangdong co-operation

24. Referring to paragraph 47 of the Policy Address, Mr WONG Ting-kwong enquired how the functions and establishment of the Hong Kong Economic and Trade Office in Guangdong (GDETO) would be strengthened, whether the dedicated unit to be established for liaison with Shenzhen would be reporting to CMAB, and when the dedicated unit would commence operation.

25. SCMA explained that the dedicated unit would be established under GDETO to focus its liaison work with the Shenzhen Municipal Government. As CMAB was the Controlling Officer of GDETO, it would bid for additional staff resources with a view to establishing the dedicated unit in Shenzhen in the coming months. A government official would be stationed in Shenzhen to head the dedicated unit which would be supported by some staff members. With the

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assistance of GDETO and the dedicated unit, CMAB and bureaux concerned would explore actively with the Guangdong Provincial Government and Shenzhen Municipal Government on how to leverage the strengths of Hong Kong, Guangdong and Shenzhen.

26. Referring to the initiatives of Hong Kong/Guangdong economic co-operation and the Hong Kong/Taiwan economic co-operation, Mrs Regina IP enquired whether the Administration had consulted the relevant sectors on the trade agreements and whether the Administration would assess the impact of these initiatives on the employment opportunities of Hong Kong. She expressed concern about the inevitable conflict of interests between Hong Kong and Guangdong, as the economic gain of one side could mean the economic loss of the other side. For instance, when more companies chose to relocate their headquarters to Guangdong/Shenzhen from Hong Kong, there would be loss of employment opportunities for local workers. Mrs IP noted that a Letter of Intent in Taking Forward Co-operation on Modern Service Industries between Hong Kong and Shenzhen in Qianhai (the Letter of Intent) had been signed and enquired why the Administration had not disclosed its contents.

27. SCMA responded that the Greater Pearl River Delta Business Council, chaired by Dr Victor FUNG Kwok-king and comprised leading businessmen from various sectors as members, was formed a few years ago to advise CE on the policies and implementation strategies needed to enhance the economic and other co-operation between Hong Kong and Guangdong. One of the functions of the Council was to collect opinions of Hong Kong business and professional sectors on issues relating to Hong Kong/Guangdong co-operation and channel them to both governments. Throughout the years, the Council had been providing constructive and useful advice to the Government, including those relating to business and development opportunities. Such advice would be seriously taken into account when the Administration drew up any initiatives. In fact, co-operation with Guangdong and other Mainland provinces would not necessarily be a zero sum game or reduce employment opportunities for local workers. The Administration hoped that through enhanced co-operation, Hong Kong could take timely action to respond to the new policies and initiatives introduced by the central, provincial and municipal governments which would bring in business as well employment opportunities for Hong Kong. Hong Kong professionals had the opportunities to tap into the Mainland markets under the Mainland and Hong Kong Closer Economic Partnership Arrangement. It was also noted that banks and insurance companies had set up their branches on the Mainland while maintaining their headquarters in Hong Kong. The experience in the past 30 years revealed that Hong Kong's full participation in the opening up and reform of the Mainland had helped open up the Mainland markets. As more Mainland citizens became entrepreneurs, they travelled frequently to Hong Kong for business and leisure purposes which in turn boosted Hong Kong's economy. The Administration envisaged that in the next 30 years, Hong Kong had much to

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contribute to the further development of the Mainland by leveraging its status as an international centre of financial services, trade and shipping. With the promulgation of the "Outline of the Plan for the Reform and Development of the Pearl River Delta" (the Outline) by the National Development and Reform Commission in January 2009, co-operation between Hong Kong and Guangdong had been elevated to a national strategic level. To tap the strategic opportunities, the HKSAR Government had been working closely with Guangdong in drawing up a framework agreement on Hong Kong/Guangdong co-operation to enhance co-operation between the two sides and to translate the macro policies of the Outline into concrete measures conducive to the development of both places. As regards Hong Kong/Taiwan co-operation framework, consensus was reached with the Taiwan side on the principles for establishing the bilateral business committees. These committees would comprise representatives from various sectors and the professional fields. In short, the sectors and bureaux concerned had been involved in the relevant trade agreements.

28. SCMA further said that the principle of "One Country, Two Systems" had always been the basis of co-operation between Hong Kong and other regions on the Mainland. The Administration had always acted in the overall interests of Hong Kong in promotion co-operation projects. If a project required additional funding from the Legislative Council (LegCo) or involved any legislative issues, in accordance with established procedures, the Administration would submit the proposal to the LegCo for consideration. In convening meetings on regional co-operation with the Mainland, the Administration had been making arrangement for the officials concerned to meet the media. Press releases would also be issued. These arrangements maintained transparency on co-operation with the Mainland. The same practices were followed for the agreements signed at the 12th Plenary of the Hong Kong/Guangdong Co-operation Joint Conference held in August 2009, including the Letter of Intent.

29. Dr PAN Pey-chyou said that while the Hong Kong Federation of Trade Unions (HKFTU) supported closer Guangdong/Hong Kong and regional co-operation, it was also concerned about its impact on the employment opportunities of local workers. He recalled that when the manufacturing industries moved their base to the Mainland, Hong Kong workers had worked on the Mainland and helped train Mainland workers. After the smooth transfer of the manufacturing operation to the Mainland, workers returning to Hong Kong had difficulty in finding employment. Dr PAN expressed concern that with the signing of the Letter of Intent, the service industries could be repeating the history of the manufacturing industries. If that was the case, Hong Kong would be losing its competitive edge in respect of the service industries. In addition, the employment opportunities for local workers would also be at stake. He enquired about the measures to be taken by the Administration to protect the interests of local employees.

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30. SCMA responded that the Administration believed that developing financial, professional and other services in the Mainland would be beneficial to Hong Kong as a whole. At present, Hong Kong had a population of about seven million and the service industries accounted for more than 90% of the gross domestic products of Hong Kong. The Administration planned to take forward co-operation on modern services with the Guangdong province as a start, and gradually expand the co-operation to the Greater Pearl River Delta area which had a population of 50 million. In the longer term, attempts would be made to expand the co-operation to cover the Pan Pearl River Delta region which had a population of 400 million. The business opportunities for the service industries which provided financial, accounting, architectural, and other services were immense. With growing business, these companies would open branches on the Mainland, and at the same time their Hong Kong offices would need additional manpower resources to cope with the workload. It would be a win-win situation as far as employment opportunities were concerned. SCMA further said that he was not worried that Hong Kong would be losing its competitive edge. Hong Kong still had many strengths, such as a well established legal system, a clean government and its ability to converge with international practices. Meanwhile, Hong Kong had to continue to create new types of work to help workers cope with the changing environment.

31. Ms Emily LAU said that while the sectors concerned were consulted on the relevant trade co-operation initiatives, LegCo was not. She considered that the Administration had an obligation to consult relevant panels on these initiatives. Ms LAU also expressed concern whether closer regional co-operation would impact on the implementation of universal suffrage, "One country, Two Systems" and the autonomy of Hong Kong.

32. SCMA assured members that closer regional co-operation would not impact on the implementation of universal suffrage in Hong Kong, as only Hong Kong permanent residents were eligible to vote in Hong Kong's elections. He further explained that as this was a policy briefing, he would give a general account of the work under the portfolio of CMAB in 2009-2010. The co-operation with the Guangdong and Shenzhen authorities was mainly concerned with economic and trade matters and the Panel on Commerce and Industry (CI Panel) had all along been the forum to discuss these initiatives. Similarly, the Panel on Development had been briefed on matters relating to post-quake reconstruction support work in Sichuan. SCMA further said that Members had been briefed on the various co-operation initiatives with the Mainland authorities at the Council and the Finance Committee meetings. On 4 March 2009, the Council passed a motion urging the Government to actively implement complementary policies for the Outline, so as to facilitate Hong Kong's closer co-operation with the Guangdong Province and Macao and promote Hong Kong's development. The discussion was a detailed and thorough one and the motion containing 14 proposals put forward by Members was passed. The Administration had subsequently made a

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progress report to LegCo. The Administration would continue to brief the appropriate Panels on the work progress according to the policy areas of the co-operation initiatives as appropriate. The Chairman suggested that in future, members of the CA Panel could be invited to attend relevant Panel meetings at which co-operation with the Mainland authorities was discussed. SCMA said that the Administration would request the clerks to the relevant panels to notify members of the CA Panel when relevant subject matters were discussed. Ms LAU suggested that the Panel Clerk should inform the clerks to the other relevant panels of the arrangement.

33. Ms Cyd HO said that as the co-operation between Hong Kong and Guangdong was getting closer and more rapid, the agreements so reached should be made public. Given that transparency and free flow of information were contributors to Hong Kong's success, it would hurt Hong Kong's position as Asian's financial and business centre if contents of these agreements were kept confidential. She also expressed concern about the difficulty in monitoring graft activities once outside Hong Kong. She requested the Administration to provide a paper setting out the number and nature of agreements reached with the Mainland and Taiwan authorities, implementation progress of these agreements, whether the public and relevant sectors had been consulted on such agreements, etc.

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34. SCMA clarified that co-operation between Hong Kong and Mainland authorities was open, transparent, complied with the principle of "One Country, Two Systems" and the laws of Hong Kong. SCMA undertook to prepare a paper on the latest development on Hong Kong/Guangdong co-operation to the CI Panel.

35. Ms LI Fung-ying asked whether the Administration would review the functions of GDETO with a view to enhancing the assistance provided to Hong Kong residents in distress on the Mainland. Ms LI further said that the Administration should enhance publicity to make Hong Kong residents living on the Mainland aware of the services available and the contact telephone numbers and addresses from which they could seek assistance.

36. SCMA responded that GDETO had been endeavouring to provide the necessary assistance to Hong Kong residents in Guangdong. Starting from January 2009, the Administration had commissioned HKFTU, on a pilot basis, to engage Mainland lawyers to provide free legal advice to Hong Kong residents on the Mainland. So far, HKFTU had handled over 1500 cases, of which about 40% were handled in Shenzhen and about 30% each in Guangzhou and Dongguan. Among these cases, 40% were related to property matters and the remaining cases were mainly related to commercial and family matters. The Administration would brief the CI Panel on its proposal to strengthen the functions and establishment of GDETO. Members of the CA Panel would be invited to join the discussion. He added that booklets on assistance provided to Hong Kong residents on the Mainland were distributed in the cross-border check-out points.

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Shanghai Expo 2010

37. Referring to the design of Hong Kong's float on the National Day parade in Beijing to celebrate the 60th anniversary of the founding of the People's Republic of China (PRC) which had drawn scathing criticism, Ms Miriam LAU doubted whether the Hong Kong Pavilion to be constructed could showcase HKSAR's unique strengths, quality city life and position as a creative capital in the Shanghai Expo 2010. She enquired about the party responsible for arranging Hong Kong's float on the National Day and the action to be taken to ensure that the Hong Kong Pavilion in the Shanghai Expo 2010 would achieve the intended purpose.

38. SCMA responded that the float, having been contracted to a Hong Kong design firm by the Information Services Department, was constructed by a Beijing contractor which was selected by the Office of the Government of HKSAR of PRC in Beijing. As regards the Shanghai Expo 2010, the Hong Kong Pavilion Concept Design Competition was launched last year under the sponsorship of the Hong Kong Institute of Architects. As the entries were assessed by professionals, the Administration was confident that the winning model would showcase Hong Kong's city charms.

39. Mr IP Kwok-him enquired about the activities for the Hong Kong Week at Expo to be held from 18 to 22 October 2010. He said that DC members were interested to participate in the event and asked whether different sectors of the community, such as DC members, would be invited.

40. Permanent Secretary for CMAB advised members that the Administration was planning a series of events and cultural performances to augment and promote Hong Kong's participation in Expo. The Administration would make public the details of these activities in due course. SCMA added that the Administration welcomed Hong Kong people from different sectors to participate in the event and noted the interest of DC members in this regard.

Hong Kong-Taiwan relations

41. Ms Miriam LAU enquired whether the Administration would introduce measures to further relax the entry arrangements of Taiwan residents visiting Hong Kong.

42. SCMA responded that further to the two entry facilitation measures for Taiwan travellers coming to Hong Kong, the Administration had, since April 2009, allowed Taiwan residents holding "Mainland Travel Permit for Taiwan Residents" (commonly known as "台胞證"), but without a valid entry/exit endorsement for the Mainland, to visit Hong Kong and stay up to seven days on visitor status. The Administration would consider any other practical measures that would help promote exchanges and interaction between people of the two places.

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43. Ms Miriam LAU enquired whether the Administration had discussed with the current Taiwan government the arrangements for the avoidance of double taxation for shipping and freight income.

44. SCMA said that he had raised the matter with the relevant Taiwan authorities during his visit to Taipei in June 2009. While arrangements for avoidance of double taxation for shipping and freight income might be more straight-forward, the Administration could not undertake when the agreement could be reached with the Taiwan authorities. However, the Administration considered the matter important and would continue to follow this up actively.

45. Mr WONG Yuk-man said that while there was positive development in the cross-Strait relations in the past year, he doubted whether there was a need for Hong Kong to establish the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council, which was not a government entity. He pointed out that while economic and trade matters between the Mainland and Taiwan were discussed through the non-government entities of the two sides with authorities delegated by the respective governments, similar arrangements should not be adopted by Hong Kong, which had no official relations with Taiwan. From the perspective of the Central Government, Hong Kong and Taiwan were of equal status as they were both municipal governments. Mr WONG further asked whether the development of Hong Kong and Taiwan relations was subject to the seven principles put forward by the former Foreign Minister of PRC, Mr QIAN Qichen (commonly known as "錢七條").

46. SCMA responded that the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council would be established to promote multi-faceted exchanges with Taiwan in the economic, cultural and other spheres. Taiwan would also establish a similar organisation to act as Hong Kong's counterpart.

47. Ms LI Fung-ying considered that the status of Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council obscure. It was not a government entity, but Government officials would participate and provide full support to its work and activities in an appropriate capacity. She enquired about the reason for the special arrangement, funding provision for the Council, and whether the Administration would brief the CA Panel on its staff establishment.

48. SCMA explained that given that this was not the appropriate time for Hong Kong and Taiwan to deal with matters of common interests in an official capacity, the establishment of the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council sought to provide a platform to facilitate exchanges between the two places. Senior public officials could interact with their Taiwan counterparts in the capacity as directors of the Council, and discuss public policy issues of mutual interests. CMAB would be responsible for providing funding

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Admin and resources for the establishment of the Council and it would make funding request to the Finance Committee as appropriate. The Administration would give an account of the establishment of the Council to the CI Panel in due course, and members of the CA Panel would be notified.

Other issues

49. Pointing out that retired civil servants residing overseas were only required to declare their whereabouts once a year in order to receive pension, Mr WONG Kwok-hing enquired whether the Administration would consider introducing the same measure to recipients of Old Age Allowance who resided on the Mainland most of the time.

Admin 50. SCMA responded that Mr WONG's proposal had policy implications. He would refer the proposal to the Labour and Welfare Bureau (LWB) for consideration.

51. Mr CHEUNG Kwok-che enquired about the measures taken by the Administration to implement the Convention on the Rights of Persons with Disabilities (the Convention) and whether the relevant sectors had been consulted on these measures.

Admin 52. SCMA said that the reporting responsibility relating to this Convention fell under the purview of LWB. He would relay Mr CHEUNG's concerns to LWB.

III. Administrative Guidelines on Promotion of Racial Equality
[LC Paper Nos. CB(2)32/09-10(02) and (03)]

Admin 53. SCMA briefed members on the progress regarding the implementation of the Administrative Guidelines on Promotion of Racial Equality (the Administrative Guidelines) as set out in the Administration's paper [LC Paper No. CB(2)32/09-10(02)]. The Administration undertook to provide further updates to the CA Panel when the draft checklists were available.

Implementation

54. Referring to paragraphs 10 and 11 of the Updated Background Brief prepared by the Secretariat [LC Paper No. CB(2)32/09-10(03)], Ms Emily LAU enquired about the progress of the following matters -

- (a) whether an inter-departmental body had been set up to co-ordinate the preparation of the Administrative Guidelines;

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- (b) when relevant ethnic minority groups would be consulted on the Administrative Guidelines;
- (c) whether bureaux and departments concerned were provided with sufficient resources to implement measures to promote racial equality; and
- (d) whether the Administration had liaised with The Ombudsman when drawing up details of the Administrative Guidelines.

55. SCMA responded that -

- (a) the Policy Committee led by the Chief Secretary for Administration had co-ordinated the preparation of the Administrative Guidelines among the relevant government bureaux and departments through the respective policy secretaries;
- (b) relevant bureaux, departments and public authorities had made the best endeavour to draw up checklists of measures that would assist in promoting racial equality and equal opportunity within their respective policy and programme areas. A total of eight policy bureaux, departments and public authorities had drawn up their checklists for the Panel's reference;
- (c) the relevant bureaux and departments would deploy internal resources to implement the existing and new measures to promote racial equality and, where necessary, they would bid for additional provision in the annual resource allocation exercise. As the demand for public services from racial groups was not huge given their small population, it would be difficult for the bureaux and departments concerned to delineate the resources required for implementing the new measures to promote racial equality; and
- (d) the Administration had liaised with The Ombudsman in drawing up the Administrative Guidelines.

Education

56. Mr CHEUNG Man-kwong said that the best way to enable ethnic minorities to integrate into Hong Kong's community was to enhance their proficiency in Chinese. While the Administration had made progress by providing designated schools with a critical mass of non-Chinese speaking (NCS) students a special grant to strengthen the learning and teaching of the Chinese language for these students, non-designated schools which admitted NCS students by a lesser number were not given any subsidy. He said that the 15

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non-designated schools which admitted 30 NCS students or more in each school had difficulty in arranging Chinese learning courses as NCS students were spread over different classes. Mr CHEUNG recalled that he had suggested at a previous CA Panel meeting that teachers in the Chinese Language Learning Support Centres (CLLSC) should approach NCS students by way of reaching out instead of stationing in the Centres for teaching assignments. He noted that CLLSC currently provided remedial programmes after school hours or during holidays for NCS students to learn Chinese and rendered professional support to teachers. According to the information given by the Administration, 352 students had enrolled in eight designated venues of CLLSC in 2008-2009, which meant that each venue could only serve 44 students. Better effect could be achieved if a teacher of CLLSC would reach out and organise a Chinese learning class for NCS students in a non-designated school after school, during weekends or holidays. Mr CHEUNG considered this targeted approach the most cost effective in helping NCS students as some of them could not afford the travelling cost to CLLSC.

57. SCMA responded that he had undertaken to follow up on provision of more support to NCS students to learn the Chinese language when the CA Panel last discussed the issue in July 2009. Since then, CMAB had discussed with the Education Bureau (EDB) on how to enhance the services provided to NCS students and decided that additional support would be given to the four support service centres for ethnic minorities sponsored by CMAB to organise tuition classes covering the Chinese language for NCS students. As to whether these classes would take place in the support service centres or in non-designated schools admitting NCS students as suggested by Mr CHEUNG, it would be a matter for the non-government organisations (NGOs) which operated the four support service centres to consider. The Administration would provide the necessary resources for the four Centres to help NCS students learn Chinese. The Administration would provide a reply to Mr CHEUNG's proposal and copy it to the CA Panel in due course.

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58. Senior Education Officer (Education Commission) of EDB (SEO) supplemented that remedial programmes in CLLSC were attended by NCS students on a voluntary basis and the number of places offered could be adjusted according to demand. So far, the services provided by CLLSC could satisfy the needs of NCS students.

59. Referring to the Summer Bridging Programme which aimed at helping NCS children adapt to the new learning environment and widening their learning experience and exposure in using Cantonese as the medium of instruction under real classroom situation, Ms Emily LAU noted that the Programme was generally well accepted by NCS children. Ms LAU enquired whether other programmes offered by EDB were also well accepted by NCS students and whether the acceptance level would be measured by objective indicators such as the number of NCS students admitted to universities.

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60. SEO responded that EDB would assess the progress of the programmes launched so as to understand whether a programme was useful, popular and what areas could be improved. The support measures implemented were in general well accepted.

61. Ms Cyd HO raised the following issues -

- (a) the NCS Parent Information Package distributed to NCS parents should promote the need for NCS children to attend kindergartens (KGs). She enquired whether NCS children admitting to KGs had increased in recent years;
- (b) EDB should run more remedial programmes in CLLSC to reinforce after-school support services for NCS students. The Administration should also consider providing travelling allowance to these students; and
- (c) the Administration should advise the amount of subsidy to be provided to NCS students taking the General Certificate of Secondary Education (GCSE) (Chinese) Examination. In the long term, the Administration should consider collaborating with the Hong Kong Examinations and Assessment Authority to conduct an alternative Chinese examination similar to that of the GCSE (Chinese) Examination locally with a view to lowering the examination fee.

62. SEO responded that -

- (a) over 10 000 NCS children were admitted to KGs (including kindergarten-cum-child care centres) in the 2008-2009 school year; and
- (b) EDB was actively exploring feasible means to support NCS students with a view to lowering the fee of the GCSE (Chinese) Examination. The details would be finalised in November 2009 before the registration for the GCSE (Chinese) Examination 2010.

63. Ms Cyd HO further said that the Administration should review the adequacy of the services provided to NCS students, as CLLSC only enrolled 352 NCS students a year but there were over 10 000 NCS students admitted to KGs a year.

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Vocational training

64. Mr Albert HO noted that to cater for the needs of ethnic minorities, a number of vocational courses were conducted in English. While it might be unreasonable to expect that all these courses be conducted in ethnic minority languages, he asked whether the Administration would consider conducting courses, which provided training on basic occupational and health safety requirements, in the common languages of ethnic minorities.

65. SCMA responded that when the Administration gave the next update on the draft checklists, the measures to ensure racial equality in employment would be addressed by the Labour Department (LD). As regards the vocational courses offered to ethnic minorities, about 500 NCS students had been enrolled in various dedicated programmes of the Vocational Training Council (VTC) in the 2008-2009 academic year, while a total of 265 ethnic minority trainees had attended five full-time placement-tied courses and three part-time generic skills courses run by the Employees Retraining Board (ERB) in 2008-2009.

66. Ms LI Fung-ying said that vocational education and training were important to help ethnic minorities integrate into the society. She enquired whether the Administration would consider deploying more resources so that a racial group with a relatively large population could receive vocational training in its own language.

67. Executive Director of ERB explained that ERB offered two types of dedicated courses for ethnic minorities, namely full-time placement-tied vocational training courses and part-time generic skills courses. The placement-tied vocational training courses sought to help ethnic minorities secure employment after training. The generic skills courses encompassed, among others, training in vocational English, Cantonese and Putonghua languages to help ethnic minorities integrate into the society and the labour market. These placement-tied vocational training courses were conducted by training bodies in English and, where necessary, they could apply for additional resources from ERB to employ an ethnic minority teaching assistant to act as interpreter in the classroom, so as to facilitate communication and interaction between the teacher and NCS students. Looking ahead, ERB would explore the feasibility of enrolling ethnic minorities who could comprehend Cantonese into non-ethnic-minority-dedicated classes by making available English training manuals. This would effectively broaden and diversify training to ethnic minorities.

68. Deputy Executive Director (Operations) of VTC said that all of the dedicated courses run by VTC for ethnic minorities were conducted in English. VTC currently offered a variety of vocational training courses for different trades and if the teaching medium was changed to an ethnic minority language, the recruitment of a qualified teacher would be a challenge.

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69. Ms LI Fung-ying expressed concern that ethnic minorities who were not proficient in English would not be qualified for registration of certain work types.

70. Chief Assistant Secretary (Works)6 of DEVB said that the Construction Workers Registration Authority in commencing the registration of workers had consulted the ethnic minorities and prepared the guidelines on registration in ethnic minority languages to facilitate their registration. The minimum requirement for a construction worker to be qualified for registration was basic knowledge on construction safety. The Construction Industry Council Training Academy (CICTA) currently offered safety-related courses in response to the demand of ethnic minorities. Many ethnic minorities had successfully registered as construction workers after completing these courses.

71. Executive Director of ERB said that ERB offered full-time placement-tied certificate courses on security guard services and property management which were very popular among ethnic minorities. These courses were conducted in English with an ethnic minority assistant to facilitate teaching and learning. ERB also offered language courses to enable ethnic minorities to improve their proficiency in English. In addition, other certification courses such as accounting and book keeping were also available in English.

72. Ms Emily LAU said that the Administration should provide empirical data to support the effectiveness of the measures introduced to promote racial equality. She requested the Administration to collect relevant statistics so that assessments could be made on the effectiveness of the programmes offered to ethnic minorities by EDB, VTC, ERB and CICTA. SCMA responded that the Administration would try its best to do so.

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Employment services

73. Ms Cyd HO said that the Administration should consider providing interpretation services for ethnic minorities who visited the job centres operated by LD. SCMA said that he would relay Ms HO's concern to LD which was drafting the checklists on the existing and planned measures on the promotion of racial equality in employment.

74. Mr Albert HO enquired whether the Government would consider relaxing its recruitment policy so that ethnic minorities who were proficient in one official language would have the opportunity to take up civil service employment. He was aware that the Police and the Correctional Services Department had relaxed the Chinese proficiency requirement for certain posts. He requested the Administration to provide a paper explaining the recruitment policy of the civil service with a view to discussing the enforcement of equal employment opportunities for ethnic minorities by the CA Panel.

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75. SCMA said that he would relay the comments to the Civil Service Bureau, which was responsible for the recruitment policy for civil servants, to provide the information for members' reference. Given that Chinese and English were the two official languages stipulated in the Basic Law, civil servants who were above a specified rank were required to meet the Chinese and English language proficiency requirements that were commensurate with the job requirements. Recognising the needs of certain departments such as the Police and the Correctional Services Department to better serve the ethnic minorities, discussion was underway on how the two departments could recruit more ethnic minorities in the future. The Administration would update the CA Panel on the progress in due course.

76. The Chairman informed members that the information requested by Mr Albert HO had also been raised at the CA Panel meeting in July 2009 and included in the List of follow-up actions [Appendix III to LC Paper No. CB(2)9/09-10], but the Administration's reply was still pending. SCMA responded that the Administration would provide a response to the CA Panel.

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IV. Any other business

77. Members agreed that regular meetings to be held on 21 December 2009 and 15 March 2010, which was close to the Christmas holiday and might clash with the meetings of the National People's Congress and the Chinese People's Political Consultative Conference respectively, should be rescheduled to 11 December 2009 at 3:30 pm (or immediately after the House Committee meeting) and 19 March 2010 at 2:30 pm respectively.

78. The meeting ended at 4:47 pm.

Council Business Division 2
Legislative Council Secretariat
10 February 2010