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by the Administration)

Panel on Constitutional Affairs

Minutes of special meeting
held on Saturday, 30 October 2010, at 9:00 am
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
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 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
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN

- Members absent** : Hon Albert HO Chun-yan
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon WONG Yuk-man
- Public Officers attending** : Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs
- Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs
- Miss Adeline WONG Ching-man
Under Secretary for Constitutional and Mainland Affairs
- Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs
- Ms Anne TENG Yu-yan
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2
- Ms Wendy LO
Senior Council Secretary (2)4
- Mrs Fanny TSANG
Legislative Assistant (2)3
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I. Arrangements regarding the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012
[LC Paper Nos. CB(2)150/10-11(01) to (02)]

Secretary for Constitutional and Mainland Affairs ("SCMA") gave a power-point presentation on the proposed arrangements regarding the methods for selecting the Chief Executive ("CE") and for forming the Legislative Council ("LegCo") in 2012 ("the two electoral methods") as set out in the Administration's paper which was tabled at the meeting [LC Paper No. CB(2)150/10-11(01)].

(Post-meeting note: The Administration's paper was issued to members vide LC Paper No. CB(2)179/10-11 on 11 November 2010.)

2. Members noted that the LegCo Secretariat had prepared a background brief on the subject under discussion for members' reference [LC Paper No. CB(2)150/10-11(02)].

Method for selecting CE in 2012

Electoral arrangements for District Council ("DC") subsectors

3. Mr CHEUNG Man-kwong, Ms Emily LAU, Mr LEE Wing-tat, Mr Ronny TONG and Mr Alan LEONG were of the view that it was unfair to retain the current "bloc vote system" for the DC subsectors while the proportional representation list system would be adopted for the election of the new DC functional constituency ("FC") seats to ensure that the seats would not be taken up by one single political party. These members were concerned that the dominant political party in the elected membership of DCs could monopolize all the 117 DC seats in the Election Committee ("EC") and have an undue influence over who could participate in the CE election. Mr CHEUNG considered that the proportional representation list system should also be adopted for returning members to the EC and to the nominating committee in 2017. He urged the Administration to listen to members' views on that issue in order to ensure fairness in election.

4. Mr IP Kwok-him and Mr Jeffrey LAM said that they did not subscribe to the view that the proposed electoral arrangements were drawn up in favor of the pro-establishment political parties/groups. Mr IP considered that the proposed "bloc vote system" would be fair to all political parties as all candidates in the DC subsectors would be nominated by elected DC members.

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5. SCMA said that the Administration had taken a neutral stance in drawing up the proposed arrangements for the two electoral methods without any preference for a particular political party. For instance, having considered the dissenting views of political parties on the number of geographical constituencies ("GCs") to be adopted in the 2012 LegCo election, the Administration maintained its view to retain five GCs to return the 35 GC members as the public had become used to the existing electoral arrangements.

6. SCMA further explained that the "bloc vote system" was also adopted in the elections of other EC subsectors and direct comparison should not be made between the LegCo election and the EC subsector elections. Both the "bloc vote system" and the proportional representation list system were democratic election systems. Under the proposed electoral arrangements, only elected DC members would be eligible for participating in the DC subsector elections and the existing DC FC election. As LegCo Members were also EC members, the Administration believed that both the pro-establishment and pan-democratic camps would be able to secure the required 150 nominations among 1 200 EC members to nominate a candidate for the 2012 CE election. The Administration considered the proposed electoral arrangement for the DC subsectors appropriate. However, he would not rule out the possibility that there would be changes to the formation of the EC and the nominating committee in future.

7. Mr Jeffery LAM asked whether the Administration would review the proportional representation list system and its view on the development of such system. SCMA replied that the "bloc vote system", the proportional representation list system and the "first-past-the-post system" were adopted in the elections in Hong Kong. While the "first-past-the-post system" was adopted in the general DC elections, the Administration considered that it was appropriate to adopt the proportional representation list system, which had been adopted by more overseas countries, in the 2012 LegCo new DC FC election.

Composition of the EC

8. Members noted that the Administration proposed to create temporarily 10 "Special Member" seats from February 2012 when the new term of EC commenced to make up the difference of 10 seats until the number of LegCo seats increased from 60 to 70 in October 2012. Given the small electoral

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base of Heung Yee Kuk ("HYK"), Ms Emily LAU expressed dissatisfaction at the Administration's further proposal of allocating two of these "Special Member" seats to HYK which would already be allocated an additional five seats out of the 100 new seats in the fourth sector of the EC. She considered that all the "Special Member" seats should be allocated to elected DC members to enhance the democratic elements in the composition of the EC. Mr Alan LEONG and Mr Ronny TONG echoed her view. Mr TONG stressed that it was unacceptable to allocate the "Special Member" seats to those sectors which had a very small electorate base to make up for the quota for LegCo Members as the latter had a much wider public mandate. He considered the Administration's proposal an insult to LegCo Members.

9. Mr LAM Tai-fai said that he supported the allocation of 75 seats to elected DC members in the fourth sector of the EC. He further considered that at least three quarters of the "Special Member" seats should be allocated to elected DC members in accordance with the proportion adopted in the allocation of 100 new seats in the fourth sector of EC for the sake of enhancing democratic elements in the composition of the EC.

10. SCMA explained that under the proposed electoral arrangements, three quarters of the 100 new seats (i.e. 75 seats) would be allocated to elected DC members, representing a high percentage of increase. The Administration had to ensure that there was balanced participation among the 300 members in the political sector (i.e. the fourth sector) of the EC in order to comply with the requirements of Annex I to the Basic Law ("BL"). Since the remaining 25 new seats would be allocated to LegCo Members, members of the Chinese People's Political Consultative Conference ("CPPCC") and HYK, it was appropriate to allocate the "Special Member" seats among elected DC members, members of CPPCC and HYK.

11. To enhance the representativeness of the EC, Dr Priscilla LEUNG considered that instead of merely increasing the number of members in the four sectors of the EC in an even manner, the Administration should allocate some of the new seats to small and medium-sized enterprises, Chinese medical practitioners, real estate agents, youth and ethnic minorities. Ms Miriam LAU expressed a similar view, saying that it was unfair to allocate additional seats to some sectors which had a small electorate base while ignoring the long-standing call for allocation of EC subsector seats to some major trades/professions such as the real estate agents and the printing sector.

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12. SCMA responded that the Administration considered that the existing EC subsectors, which included many major trades/professions of Hong Kong, were broadly representative. In view of the broad coverage of these new subsectors as proposed by Members, it would be difficult to include all organizations in such subsectors. If only some of the organizations were designated as part of the electorate, other organizations might raise questions on the eligibility criteria for registration. Having considered the difficulty in and the time required for achieving a consensus on the generally accepted eligibility criteria for registration for any new subsectors, the Administration considered that it would be desirable to maintain the status quo of keeping the existing 32 subsectors. He advised that small and medium-sized enterprises could participate in the EC subsector elections through registration as members of Chambers of Commerce or direct registration under the existing EC subsectors, such as the wholesale and retail EC subsector and the import and export EC subsector.

Nomination mechanism for the CE election

13. Mr LEE Wing-tat enquired whether the nomination threshold to field a candidate for the CE election would be adjusted downwards to increase the pool of candidates. SCMA advised that when Members supported the motion on the amendments to Annex I to the BL regarding the method for the election of CE in 2012, it was the understanding that the nomination threshold for the CE election would be set at 150. The Administration would adhere to the electoral arrangement which were supported by Members.

14. Mr Ronny TONG considered that elected DC members, for instance, should be given the right to nominate more than one candidate for the CE election to enhance the democratic elements. He asked whether a EC member could do so. SCMA explained that in accordance with Annex I to the BL, each EC member could nominate only one candidate for the CE election. The Administration considered the present arrangement appropriate.

Method for forming LegCo in 2012

The "one-person-two-votes" proposal for returning the five new DC FC seats

15. Ms Emily LAU said that the Democratic Party ("DP") supported the "one-person-two-votes" proposal for returning the five new DC FC seats in

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2012 with which the constitutional development of Hong Kong had been taken a step forward. She hoped that the Administration could consider enacting the legislation in one-go for the implementation of universal suffrage for selecting the CE in 2017 and for forming the LegCo in 2020. Regarding the Administration's proposal that the new DC FC would be returned from the whole Hong Kong Special Administration Region ("HKSAR") as a single constituency, Ms LAU said that DP had discussed the issue with some academics and shared their view that it was acceptable for the five seats to be returned from either a single constituency covering the whole territory or through five constituencies.

16. Ms Audrey EU and Mr Alan LEONG said that unlike the current GC elections, there was inequality among the right to vote, the right to nominate and the right to stand for election under the "one-person-two-votes" proposal for returning the new DC FC seats in 2012. They considered that the issue should be addressed so that the new DC FC election would at least be more akin to a GC election. Echoing a similar view, Dr Margaret NG considered that the Administration should refine the proposal to remedy the deficiencies in the electoral arrangements of the new DC FC.

17. SCMA stressed that under the "one-person-two-votes" proposal for returning the new DC FC seats in 2012, only elected DC members would be eligible to nominate and be nominated as a candidate and the candidates would be elected by a large electorate base of over 3.2 million registered electors. The Administration considered that democratic elements of the FC system would be enhanced. To maintain the half-and-half ratio for Members returned by FCs and Members returned by GCs as stipulated in the decision of the Standing Committee of the National People's Congress ("NPCSC") in 2007, there was a need to return the additional five DC FC seats through FC election.

Candidature and nomination of new DC FC

18. Ms Emily LAU was of the view that the nomination threshold for the new DC FC should be adjusted to 10 instead of 15 as proposed by the Administration. She stressed that persons who had a substantial connection with DCs should be allowed to stand as candidates for the five new DC FC so as to increase the pool of candidates.

19. Mr IP kwok-him said that the DAB supported a low nomination threshold for DC FC but he did not see much difference between a threshold

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of 10 or one of 15. Dr Priscilla LEUNG considered that it was appropriate to set the nomination threshold within 10 to 20. She also agreed with the Administration's proposal that the nomination and candidature of the new DC FC should be restricted to elected DC members only.

20. Mr LEUNG Kwok-hung and Ms Tanya CHAN sought explanation from the Administration on the rationale and basis for setting the nomination threshold at 15. SCMA explained that the Administration had considered the proposals put forward by various political parties, which ranged from 10 to 20 subscribers. Under the proposed electoral arrangements, elected DC members could nominate a list of candidates for the five new DC FC seats. For average of five candidates, each candidate only needed to have nominations from three elected DC members. This was significantly below the current nomination threshold of 10 nominations for a candidate to join any particular FC election including the existing DC FC. With the proposed nomination threshold, it was envisaged that the 412 elected members of the fourth term DC could nominate more than 20 lists of candidates which would ensure competition in the new DC FC election. The Administration considered that the proposed number of nominations required for the new DC FC appropriate as it would enable different political parties and also independent candidates to take part in the election.

21. Noting that elected DC members might only register as electors in the existing DC FC and were not eligible for registration in other traditional FCs, Mr IP Kwok-him and Ms Tanya CHAN enquired whether an automatic registration mechanism would be put in place. Ms CHAN pointed out that persons registered as electors or being eligible for registration as electors in the traditional FCs currently would be given a choice to opt for registration with the traditional FCs or the existing DC FC. She enquired whether existing electors in traditional FCs would automatically be de-registered once they were elected as DC members.

22. SCMA explained that as elected DC members would have to nominate candidates and the existing DC FC and the five new DC FC elections, the Administration considered that elected DC members should only register as electors in the existing DC FC to avoid the FC having a narrow electorate base. Under the proposed arrangements, registered electors in traditional FCs would only be eligible for registration in the DC FC once being elected as DC members. Ms Tanya CHAN indicated that she did not agree with such an arrangement.

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23. Mr IP Kwok-him asked whether elected DC members could have the right of nomination in the existing DC FC. SCMA replied that DC members could choose either to nominate a candidate list for the election in the new DC FC or a candidate for the election in the existing DC FC.

24. Dr LAM Tai-fai opined that the proposed nomination requirement for DC FC by no less than 15 subscribers would put independent candidates and those supported by small political parties at a disadvantage as most nominations would very likely be taken up by large political parties. He urged the Administration to cap the number of subscribers to be obtained by a candidate so that there was room for independent candidates and candidates from small political parties to secure adequate number of nominations.

25. SCMA explained that the Administration did not recommend a cap on the number of subscribers to be obtained by a candidate because candidates might wish to take the chance to strengthen their liaison with communities in order to secure wider support among elected DC members.

26. Mr CHIM Pui-chung said that under the existing mechanism, a registered elector could stand for the election of a particular FC even though he/she was not a member of any organization belonging to that FC. Taking himself as an example, he said that he was nominated as a candidate in the Financial Services FC despite the fact that he was not a member of any organization or association registered in that sector. He considered that the same principle should be adopted in the new DC FC election. Mr CHIM added that on the basis that at least 15 nominations had to be sought from among 412 elected DC members, he estimated that a total of up to 27 candidates would be nominated for the DC FC election. Some political parties, however, might not be willing to nominate candidates other than its members. Hence, the number of candidates to be nominated would turn out to be slightly above 10 only. In view of the limited candidature, Mr CHIM considered that the Administration should relax the nomination and candidature of the new DC FC seats so that people other than elected DC members could also be nominated and stand for the new DC FC election to increase the pool of candidates.

27. SCMA said that it was possible that political parties might nominate candidates not belonging to their parties as different political parties might have to cooperate with each other to form a list of candidates to participate in the new DC FC election.

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Election expenses limit for the new DC FC seats

28. Mr CHEUNG Man-kwong and Ms Emily LAU were of the view that the setting of the maximum amount of election expenses limit for the new DC FC at \$6 million was too high. Mr CHEUNG queried that if the election expense limit was \$6 million, it was unrealistic to expect an elected DC member to fork out \$3 million, which would be enough to buy a residential flat, to run an election campaign. He expressed strong dissatisfaction that setting such a high election expenses limit would create unfairness in the participation of election as only well-off candidates could afford to stand for the election. He considered that the Administration should provide more assistance to candidates to facilitate their arrangements in publicity work for the election in order to relieve their financial burden. For instance, the Administration could produce an A-4 sized leaflet covering the election platforms of up to eight candidates. That would also be more cost-effective and environmental-friendly.

29. While agreeing on the maximum election expenses limit proposed by the Administration for the new DC FC, Dr Priscilla LEUNG considered that the Administration should provide more financial assistance to candidates. Mr IP Kwok-him considered that while a high election expenses limit would put less well-off candidates at a disadvantage, a low election expenses limit would pose limitations to the election campaigns of candidates. He sought explanation from the Administration on the basis for arriving at the proposed election expense limit for the new DC FC.

30. SCMA said that the Administration had considered the proposals put forward by various political parties ranging from \$4 million to \$8 million. The Administration considered that it was appropriate to set the maximum amount of election expense for the new DC FC at \$6 million. He cautioned that candidates might be constrained in carrying out their election campaigns if the election expenses limit was set at a low level. Regarding the basis for setting the limit, SCMA explained that the Administration had conducted an assessment concerning the election expenses limit of the new DC FC. It was estimated that at least \$3 million would be spent on printed election materials for distribution to over three million electors and another \$3 million for the conduct of electioneering activities. He added that under the existing practice, the Administration would produce a booklet to introduce candidates to electors in the LegCo election and provide one round of free postage service to candidates.

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31. Dr LAM Tai-fai considered that the maximum election expenses for the new DC FC should be set at a higher limit in view of inflation factor. He also considered that the Administration should have adopted a forward-looking approach and taken into account the potential increase in the electorate base of the new DC FC in setting the election expenses limit. SCMA reiterated that the Administration maintained the view that the election expenses limit for the new DC FC should not be set at a high level so that candidates from large or small political parties and independent candidates could participate in the election. Nevertheless, the Administration would review whether there was any need to revise the election expenses limits for GCs and FCs in the fourth quarter of 2011 taking into account the latest inflation and population figures.

32. Ms Audrey EU shared the concern that the election expenses limit was too high which would be a heavy burden on a candidate of any political background. She opined that the five new DC FC seats should be returned from five constituencies instead of one single constituency covering the whole territory so that the election expenses could be adjusted downward to reduce the financial burden on the candidates.

33. SCMA responded that the election expenses could be shared among candidates in a list. Independent candidates could also form a list with other parties to join the election so that the cost could be shared out. He further pointed out that since the election expenses limit only served as a ceiling for the amount a candidate/each list of candidates could incur, it would be entirely possible for certain political parties or candidates to choose to run their election campaigns without having to incur election expenses up to that limit.

34. Dr PAN Pey-chyou considered that the proposed election expenses limit for the new DC FC was not too high. He enquired whether the Administration would relax the existing restriction on election advertisement in the media and review the mode of publicity for elections, having regard to the extensive election campaigns to be carried out by candidates of the new DC FC to reach out to all registered electors across the territory.

35. SCMA advised that the Administration maintained the view that political advertisements should be prohibited in the electioneering campaign so that the election expenses limit would not have to adjust further upwards, putting the less well-off candidates at a greater disadvantage. In view of the expected keen participation of political parties in the new DC FC

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election in 2012, it was envisaged that the new DC FC election would become a focus of the media and attract extensive free coverage by the press and electronic media.

36. Mr Paul TSE was of the view that Hong Kong was lagging behind in the development of electronic election broadcasting. Pointing out that political advertisement was common place in overseas countries, he considered that the restriction should be relaxed. Mr TSE opined that the Administration should not set a cap on the election expenses limit for the new DC FC so that independent candidates from the business sector and professional sectors would be encouraged to participate in the LegCo election even though they lacked the manpower support from political parties. He added that a low election expenses limit would not be feasible for running an election campaign in a large constituency and would pose an obstacle to the participation of independent candidates in the election.

37. Mr Jeffrey LAM pointed out that overseas countries had adopted different policies on an election expenses limit to suit their own circumstances. He enquired whether the Administration would review or abolish the cap on election expenses in light of the actual situation of Hong Kong.

38. SCMA advised that the Administration maintained the view that political advertisement should be prohibited in an election campaign at the current stage to ensure fair participation in an election. He cautioned that candidates from small political parties and independent candidates would be put at a disadvantage if candidates from larger political parties which had more financial resources were allowed to arrange political advertisements. A relatively low election expenses limit would facilitate participation of candidates from different backgrounds. Candidates were encouraged to make use of the financial assistance provided by the Government and the publicity channel on the internet in carrying out their electioneering activities.

39. Mr CHIM Pui-chung pointed out that large political parties had abundant volunteer manpower resources and promotion for candidates could be arranged through newsletters of large political parties. He considered that the Administration had to carefully consider such issues in setting the election expenses limit in order to avoid unfairness to other candidates.

40. SCMA advised that the election expenses limit would be applied across the board to all candidates. It would be a violation of the relevant

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electoral legislation if a political party promoted any candidate in an election through their day-to-day publicity activities without including the cost of such activities in the calculation of election expenses incurred by that candidate.

Financial assistance

41. Ms Emily LAU said that DP had suggested to the Administration that the financial assistance in respect of a list of candidates/candidates standing for the 2012 LegCo election should be increased from \$11 to at least \$20 per vote and that the cap on the financial assistance payable should be adjusted from 50% to 70%-80% of the declared election expenses. She expressed strong dissatisfaction at the Administration's proposal that the subsidy rate per vote would only be slightly increased by \$1 from \$11 to \$12 with the cap on the financial assistance payable maintained at 50% of the declared election expenses. She urged the Administration to enhance the financial assistance for the new DC FC election.

42. Mr Ronny TONG said that while he did not have any strong view on the increase of subsidy rate per vote for the 2012 LegCo election, he was dissatisfied that the financial assistance payable would be capped at 50% of the declared election expenses because a candidate would have to fork out \$3 million as election expenses in order to stand for the new DC FC election. Mr TONG considered that it would pose a heavy financial burden on an elected DC member, whose monthly honorarium was about \$20,000 only. Having regard to the large electorate base of the new DC FC and in order to relieve the financial burden of candidates, he considered that the cap of the financial assistance payable for the new DC FC should be set at 70% or above of the declared election expenses. He also suggested that the regulation over on-street fund-raising activities should be relaxed to facilitate collection of donations from the public by political parties.

43. SCMA stressed that it had been the long-standing practice that candidates would need to meet half of their election expenses. The existing mechanism was considered reasonable and had been functioning well. Taking into account inflation, the subsidy rate per vote would be increased from \$11 to \$12 for the 2012 LegCo election. He would relay Mr Ronny TONG's suggestion of relaxing the regulation over on-street fund-raising activities to related bureau/department for consideration.

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Election of GC seats

44. Ms Emily LAU said that the Administration's proposal of retaining five GCs for returning the 35 GC members was acceptable to DP. In anticipation of the increase in the number of GC seats in New Territories West geographical constituency ("NTWGC") to nine or even 10 seats in the 2012 LegCo election, Mr LEE Wing-tat, however, expressed concern that a candidate would only need to secure 25 000 votes or around 3% of the total votes cast to win a seat in the election. In an extreme case, a successful candidate might have his election deposit forfeited because the number of votes obtained by the candidate was below 3% of the total number of valid votes cast at the election.

45. SCMA said that the number of GCs would be retained at five as the public was used to the existing electoral arrangement. The established practice of demarcating constituency areas according to the distribution of population was also considered appropriate. The Administration, however, would take into account Mr LEE Wing-tat's views when drawing up the relevant legislative proposal.

46. Noting that GCs seats would be allocated to the five constituencies according to population distribution, Dr PAN Pey-chyou expressed concern that constituencies with a larger number of LegCo members would have an advantage in the allocation of public resources or distribution of public facilities at the expense of smaller constituencies. For instance, obnoxious public facilities might be constructed in smaller constituencies only.

47. SCMA replied that the existing practice of allocating GCs seats on the basis of the population distribution in accordance with law was considered appropriate. The Electoral Affairs Commission would also conduct an independent assessment on the number of seats to be allocated to each GC. He assured members that under the existing mechanism, all the public works programme and building projects would have to be endorsed by the respective DCs and LegCo before implementation.

Traditional FCs

48. Dr Margaret NG criticised that the Administration had only emphasised that there was a record-low elector turnout rate of 17% in the by-election held in May 2010 but did not pay heed to the aspirations of the half a million electors who had voted for the abolition of FCs in that

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by-election. She said that according to the opinion poll conducted in August 2010 by the Hong Kong Transition Project, over 65% of respondents supported the abolition of FCs and 77% of this group of people considered that corporate votes in FCs should be abolished. She expressed dissatisfaction that the Administration was only willing to make technical amendments to FCs without taking into consideration public opinions on the FC system.

49. Mr Paul TSE expressed dissatisfaction that the Administration had ignored the long-standing call of FC Members to improve the FC system by broadening its electorate base. He considered that the Administration should enhance the representativeness of the traditional FCs. Ms Miriam LAU pointed out that some companies were not included as constituents in some FCs, such as the Transport FC. She called on the Administration to extend the right to vote to all companies in the FC elections. Mr TSE suggested that the right to vote should also be extended to individuals in some FCs such as the Tourism FC.

50. SCMA advised that companies could participate in FC elections by registering as members of the organizations/associations which had the right to vote to return FCs seats. The Administration would follow up with the Transport and Housing Bureau on Ms Miriam LAU's suggestion concerning the electorate base of the Transport FC. He explained that the existing FCs had already covered major trades and professions in Hong Kong. SCMA stressed that the Administration noted Members' request for improving on the FC system and therefore proposed the "one-person-two-votes" proposal for returning the new five DC FC seats whereby the candidates would be elected in accordance with the proportional representation list system by approximately 3.2 million registered electors who currently did not have a right to vote in FCs. In addition, the electorate base of FCs was broadened as 3.43 million of registered electors could either have the right to vote in the traditional FCs or the five new DC FC.

51. Mr LEUNG Kwok-hung asked whether the Administration would abolish the voting right of corporate bodies to return FCs seats under which a permanent resident of Hong Kong was authorized as a representative by corporate electors to vote in the election. SCMA advised that as specified by relevant electorate law regarding the formation of FCs in accordance with Annex II to the BL, a body was eligible to be registered as a corporate

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elector for FCs election by authorising a representative who had to be a permanent resident of Hong Kong.

52. Mr CHIM Pui-chung considered that the Administration had a duty to clearly make known of its stance to enhance rather than to abolish the FC system to avoid any speculation on its future development. SCMA advised that the Administration had not yet formed any specific views on the retention or abolition of FCs. It would be appropriate for the fourth-term CE returned by universal suffrage in 2017 to make any recommendation on the way forward.

Democratic elements of the two electoral methods

53. Ms Audrey EU and Mr Ronny TONG were of the view that the proposed arrangements regarding the two electoral methods should reflect public views, be conducive to the operation of LegCo and be drawn up according to democratic principles. Mr LEE Wing-tat was of the view that the Administration should have strived to maximize the democratic elements of the two electoral methods within the framework laid down in the relevant decision of NPCSC made in 2007. He was disappointed that the proposed arrangements regarding the two electoral methods included too many restrictions which would have the effect of hindering democratic development.

54. SCMA reiterated that the two electoral methods in 2012 would bring about a real advancement in the constitutional development of Hong Kong. Under the "one-person-two-votes" proposal for returning the new five DC FC seats, candidates would be elected in accordance with the proportional representation list system by approximately 3.2 million registered electors who currently did not have a right to vote in FCs.

55. Mr Alan LEONG expressed disappointment at the proposed arrangements for the two electoral methods in 2012 on the ground that the principles of equality among the right to vote, the right to nominate and the right to stand for election had not been upheld in the electoral arrangements. He queried whether there would be equality of such rights in the CE election in 2017 and the LegCo election in 2020.

56. SCMA reiterated that with the implementation of the "one-person-two-votes" proposal for returning the new DC FC seats in 2012, about 60% of all the LegCo seats would therefore be returned through direct

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or indirect GC election in 2012. The Administration considered that democratic elements were enhanced through such electoral arrangement which was conducive to the implementation of universal suffrage in the CE election in 2017 and the LegCo Election in 2020.

Proposed restrictions on LegCo Members who resigned from their office to stand again in the by-elections

57. Mr WONG Kwok-hing asked the Administration to explain the reason for not including any legislative proposal in the local legislation to be enacted on the two electoral methods to amend the LegCo Ordinance (Cap. 542) ("LCO") for the purpose of imposing restrictions on the eligibility of a LegCo Member who resigned in order to stand again in the by-election to fill that vacancy. He expressed concern that a DC FC Member could by resigning set in motion the need to another by-election and called on the Administration to put forward legislative proposals to plug the loophole as soon as possible. Expressing support for plugging the loophole, Dr Priscilla LEUNG said that while she considered that it was appropriate to impose restrictions on LegCo Members who resigned at will to stand again in the by-elections within the same term of office, she agreed that the Administration should take time to study the issue in depth to put forward effective legislative proposals.

58. SCMA responded that the Administration noted the Members' concern that any by-election triggered by resignation of Members at will would abuse the election system and was a waste of public money. It also went against the expectation of the public that LegCo Members they voted for should complete their four-year term of office to serve the community. He assured members that it was the plan of the Administration to put forward a draft Bill for Members' discussion and enactment within the 2010-2011 legislative session. SCMA explained that it would not be effective simply to prevent the Member who had resigned from standing for the by-election given that a party colleague of that Member could still stand for that by-election in place of that Member who had resigned. The Administration would put forward legislative proposals to plug the loophole after dealing with the local legislation on the two electoral methods.

59. Ms Audrey EU was of the view that the crux of the issue was to give a choice to the electors and to respect that choice. Without public support, any by-election triggered by the resignation of any LegCo Member would achieve no useful purpose. In her view, any candidate could launch a

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similar "referendum campaign" by putting their election platforms for the electors to vote in any general elections, especially for the DC FC Members who were returned from a single constituency representing the whole territory.

60. Dr Margaret NG considered that the freedom of expression of LegCo Members and electors would be infringed if a LegCo Member was prohibited by law to resign and stand again in the by-election. She opined that it was the fundamental right of a LegCo Member to resign in protest against a policy or practice. She hoped that the Secretary of Justice as the upholder of the rule of law would review the legal implications of any policy proposal put forward by the Administration in this respect.

61. SCMA replied that the Administration would uphold the right to vote and the right to stand for election of the public as guaranteed in BL 26. There were also established arrangements regarding the resignation of a LegCo Member.

II. Any other business

62. The Chairman proposed that the meeting be extended for about half an hour in order to allow all members who had indicated their intention to speak could do so. Members raised no objection to the proposal. The meeting subsequently ended at 11:33 am.