

INFORMATION NOTE

Transition arrangements for change of government in selected places

1. Background

1.1 This information note provides a summary of the transition arrangements for change of government in the Macao Special Administrative Region ("Macao"), Taiwan, Australia and the United States. The following **Table** compares the preparation work done before transition and the handling of unfinished policy tasks of the outgoing government after transition in the places studied.

Table – Transition arrangements for change of government in selected places

	Macao⁽¹⁾	Taiwan⁽²⁾	Australia	The United States
Preparation work done before transition				
Measures to facilitate the work of the incoming government	<ul style="list-style-type: none"> The incumbent CE issued a directive in August 2009 requesting all secretaries' offices, bureaux and public entities to support the incoming CE in forming his team. Personnel were provided to the office of the incoming CE from these public organs, and the costs were borne by the incumbent government. 	<ul style="list-style-type: none"> The President-elect can request the secondment of personnel from the incumbent government to assist with the forming of the new government. The President-elect and his or her designated personnel can request the transfer of government files and other relevant documents from the incumbent government. 	<ul style="list-style-type: none"> As a convention, the incumbent government assumes a "caretaker role" during the "caretaker period" which begins at the time the House of Representatives is dissolved and continues until the election result is announced or, if there is a change of government, until the new government is appointed. 	<ul style="list-style-type: none"> Presidential transition in the United States is regulated by the <i>Presidential Transition Act of 1963</i> ("the Act"), as amended by legislation such as the <i>Presidential Transitions Effectiveness Act of 1998</i>, the <i>Presidential Transition Act of 2000</i>, and the <i>Pre-Election Transition Act of 2010</i>. In particular, the Act provides for: <ul style="list-style-type: none"> (a) the General Services Administration⁽³⁾ to provide funding, facilities, access to government services, and support for the transition team established by the President-elect;

Notes: (1) Ho Hau Wah was the first and second terms Chief Executive ("CE") of Macao. Chui Sai On was elected the third term CE of Macao on 26 July 2009. He was appointed the third term CE on 10 August 2009 and formally sworn in on 20 December 2009. As there is no legislation governing the transition arrangements in Macao, information provided in this **Table** only refers to the practices adopted for the transition arrangements in 2009.

(2) Currently, there is no legislation governing the presidential transition arrangements in Taiwan. Information provided in this **Table** is based on a draft bill on presidential and vice presidential transition introduced to the Legislative Yuan in 2008. The bill is awaiting the passage by the legislature.

(3) The General Services Administration is a federal agency responsible for supporting the functioning of other federal agencies. Their duties include supplying products and communications for government offices and providing office space to federal employees.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Preparation work done before transition (cont'd)				
Measures to facilitate the work of the incoming government (cont'd)	<ul style="list-style-type: none"> The incumbent CE had discussed with the incoming CE and reached consensus over the arrangement of the 2010-2011 budget. They agreed that the key budget proposals should be outlined by the incumbent government, though the proposals would be implemented by the incoming government. 	<ul style="list-style-type: none"> With effect from the polling day for presidential election until the inauguration of the President-elect, the incumbent president who fails to be elected must freeze the appointment and/or transfer of key government officials. During the above period, the President-elect can freeze the implementation of those policies, orders and budget proposals which he or she considers controversial. 	<ul style="list-style-type: none"> The incumbent government generally observes the caretaker convention, which includes refraining from: <ol style="list-style-type: none"> making major policy decisions that are likely to commit an incoming government; making significant appointments; and entering major contracts or undertakings. 	<ol style="list-style-type: none"> provision of training and orientation to incoming government personnel; and the incumbent President to take any actions that he or she determines necessary and appropriate to plan and co-ordinate activities of the executive branch to facilitate an efficient transfer of power⁽⁴⁾.

Note: (4) These include the establishment and operation of a transition co-ordinating council, the development of guidance to executive departments and agencies regarding briefing materials for the incoming administration, and the development of publications, training, programmes and other items appropriate for improving the effectiveness and efficiency of a presidential transition for dissemination to the President-elect. The transition co-ordinating council may comprise high level officials of the executive branch selected by the incumbent President, which may include any Cabinet officer, the Chief of Staff to the President, and the Administrator of the General Services Administration.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Preparation work done before transition (cont'd)				
Setting up an office or a team to prepare for the transition	<ul style="list-style-type: none"> The office of the CE-elect began operation on 1 September 2009. Its operation was supported by the incumbent government. Staff of the office held meetings with government bureaux to prepare the 2010-2011 policy address. 	<ul style="list-style-type: none"> The President-elect will set up an office tasked with, among other things, the handling of the transfer of important documents between the incumbent and incoming governments. 	<ul style="list-style-type: none"> The Labor Party won the 2007 parliamentary election and has ruled Australia since then. In 2004, the Labor Party published a comprehensive policy commitment, <i>Machinery of Government: the Labor Approach</i>, which provided a basis for planning of the new government after the 2007 election. The 2004 document covered areas including ministerial and parliamentary standards, the size and structure of the ministry, Cabinet functions and the role of ministerial staff. 	<ul style="list-style-type: none"> The President-elect will establish a transition team to prepare for the orderly transfer of power between administrations. The preparation works to be done may include: <ul style="list-style-type: none"> (a) filling in positions of key officials in the new administration⁽⁵⁾; (b) briefing nominees of the heads of executive departments on the operations of the respective departments and the priorities of the new administration; and (c) reviewing the executive orders⁽⁶⁾ of the incumbent President to determine whether the incoming President wants to rescind or replace any of them with orders of his or her own to define new course of action right away.

Notes: (5) Over 9 000 civil service leadership and support positions in the Executive and Legislative branches of the Federal Government, including Cabinet Officers and heads of other executive branch agencies, Under Secretaries, Assistant Secretaries, and Directors of Bureaus and Services, may be subject to change during presidential transitions. These positions are listed in a document called "United States Government Policy and Supporting Positions" which is published every four years at the request of the Congress.

(6) A presidential executive order is a directive issued to federal agencies, department heads or other federal employees by the President under his or her statutory or constitutional powers. Executive orders become laws 30 days after being published in the Federal Register. Presidents typically issue executive orders for purposes such as operational management of the executive branch, federal agencies or officials, and carrying out statutory or constitutional presidential responsibilities.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Preparation work done before transition (cont'd)				
Whether the incumbent government would have to complete the legislative process of all bills introduced before transition	<ul style="list-style-type: none"> Not specified in rules. In practice, all bills introduced by the incumbent government had completed the legislative process before the inauguration of the incoming government. 	<ul style="list-style-type: none"> Not specified in the draft bill. 	<ul style="list-style-type: none"> The incumbent government would complete the legislative process provided that: <ol style="list-style-type: none"> the enactment of the bill will not be in breach of the caretaker convention; or the bill has passed through both Houses, in which case it would be assented to by the Governor-General before the dissolution of the House of Representatives. 	<ul style="list-style-type: none"> Rules of the Congress are silent on this issue.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Preparation work done before transition (cont'd)				
Arrangements related to appointment of principal officials	<ul style="list-style-type: none"> On 24 November 2009, in accordance with the Macao Basic Law and the nomination of the incoming CE, the State Council appointed the principal officials and the Public Prosecutor-General of the new government. As appointed by the State Council, six principal officials and the Public Prosecutor-General of the incumbent government continue to serve in their current posts in the new government, while one principal official has assumed another post. In other words, eight out of 10 principal officials of the incumbent government have remained in the new government⁽⁷⁾. 	<ul style="list-style-type: none"> The <i>Constitution</i> provides that the President-elect is responsible for appointing the President of the Executive Yuan while other Ministers of the Cabinet shall be appointed by the President upon the recommendation of the President of the Executive Yuan. 	<ul style="list-style-type: none"> In the case of a change in government, the Shadow Ministers of the Opposition Party winning the parliamentary election are expected to serve in the new government. 	<ul style="list-style-type: none"> The appointment of members of the Cabinet, except for the Vice President⁽⁸⁾, is required to be confirmed by the Senate, the upper house of the Congress. The President-elect may nominate candidates before inauguration but voting of the Senate on the nominations will take place after inauguration.

Notes: (7) For the remaining two principal officials of the incumbent government, one was the incoming CE who served as the Secretary for Social Affairs and Culture in the incumbent government and the other one was not nominated by the incoming CE to serve in the new government.

(8) The Cabinet of the United States comprises the Vice President and the heads of 15 executive departments of the government. The Vice President is elected along with the President during the presidential election.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Preparation work done before transition (cont'd)				
Arrangements if there would be a reorganization of government structure	<ul style="list-style-type: none"> There was no reorganization of government structure. Although there was speculation that the number of policy secretaries would be raised from five to seven, the number has remained unchanged until the present time. 	<ul style="list-style-type: none"> The organization of government structure is set out in law. Any reorganization has to be approved by the Legislative Yuan. There has not been any reorganization during the presidential transition. 	<ul style="list-style-type: none"> After the Prime Minister of the new government has taken office, in the case of a reorganization of government structure and upon the advice of the Prime Minister, the Governor-General signs the Administrative Arrangements Order which formally allocates executive responsibility among the ministers. 	<ul style="list-style-type: none"> Information not available.

Table – Transition arrangements for change of government in selected places (cont'd)

	Macao	Taiwan	Australia	The United States
Handling of unfinished policy tasks of the outgoing government after transition				
Arrangements for handling the unfinished policy tasks	<ul style="list-style-type: none"> As observed from the first policy address of the new CE delivered to the Legislative Assembly on 16 March 2010, policies were inherited from the previous administration. The policy orientation of the new CE was in line with the previous administration. The new government continued those policy initiatives that the outgoing government had committed⁽⁹⁾. 	<ul style="list-style-type: none"> Information not available. 	<ul style="list-style-type: none"> There is no rule governing the handling of the unfinished policy tasks of the outgoing government after transition. The continuation and arrangement of these policy tasks is to be decided by the incoming government. 	<ul style="list-style-type: none"> Information not available.

Note: (9) For example, the new CE announced that the government would keep the cash subsidies and tax cuts implemented by the previous administration. Moreover, the outgoing CE said in his last policy address that the government would launch a central savings system. The new CE reaffirmed this commitment and pledged to set up a two-tier social security system, including a central savings system. The outgoing government's commitment to the provision of 19 000 public housing units over the next few years would also be continued by the new government.

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