

立法會
Legislative Council

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LC Paper No. CB(2)2213/14-15
(These minutes have been seen
by the Administration)

**Subcommittee on Proposals on
the Method for Selecting the Chief Executive in 2017**

**Minutes of the eighth meeting
held on Tuesday, 2 June 2015, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Albert CHAN Wai-yip
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing

Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

**Members
absent** : Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Ronny TONG Ka-wah, SC
Hon WONG Yuk-man
Hon Steven HO Chun-yin
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Hon CHUNG Kwok-pan

**Public Officers :
attending** Mr Raymond TAM Chi-yuen
Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Ms Roxana CHENG Pui-lan
Deputy Solicitor General (Constitutional)
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Miss Flora TAI
Assistant Secretary General 2

Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

I. Meeting with the Administration

[Consultation Report and Proposals on the Method for Selecting the Chief Executive ("CE") by Universal Suffrage, and LC Paper No. CB(2)1454/14-15(01)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Admin 2. The Administration was requested to submit a paper on whether the method for selecting CE in 2012 would continue to apply if the proposals to amend the method for selecting CE put forth by the Administration failed to obtain the endorsement by a two-thirds majority of all Members of the Legislative Council and, if so, the legal basis for such a position.

(Post-meeting note: The supplementary information paper provided by the Administration was issued vide LC Paper No. CB(2)1625/14-15(01) on 4 June 2015.)

3. The Subcommittee completed scrutiny of the draft motion concerning the amendment to the method for the selection of CE. Members agreed that the Subcommittee would report its deliberations to the House Committee at its meeting on 5 June 2015. The Administration informed members of its intention to move the motion concerning the amendment to the method for the

selection of CE at the Council meeting of 17 June 2015. No member raised objection.

II. Any other business

4. There being no other business, the meeting ended at 12:55 pm.

Council Business Division 2
Legislative Council Secretariat
9 October 2015

**Proceedings of the eighth meeting of the
Subcommittee on Proposals on
the Method for Selecting the Chief Executive in 2017
on Tuesday, 2 June 2015, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000527 - 001211	Chairman Administration	<p>Opening remarks</p> <p><u>Examination of the draft motion concerning the amendment to the method for the selection of the Chief Executive ("CE")</u></p> <p><i>Articles 4 and 5 of Annex I to the Basic Law ("BL")</i></p> <p>The Secretary for Constitutional and Mainland Affairs ("SCMA") briefed members that under the Administration's proposals for the method for selecting CE by universal suffrage ("the Proposals"), a person who could obtain recommendation jointly by 120 nominating committee ("NC") members in their individual capacities could become a member seeking nomination for the CE election. The proposed threshold was lower than the existing requirement of nominations jointly by 150 Election Committee ("EC") members, so as to encourage more aspiring individuals to seek nomination. Moreover, a cap on the recommendations (i.e. 240) that each person seeking nomination should obtain was proposed. This meant that the system could allow at least five and at most 10 places for persons seeking nomination, so as to enhance the competitiveness of the nominating process. Further, it was proposed that NC should nominate two to three CE candidates through voting by secret ballot, and each NC member could vote for all persons seeking nomination, or vote for only some of such persons (at least two persons). Specific procedures for handling situations where no person, only one person, or more than three persons seeking nomination obtaining endorsement of more than half of all the NC members would be dealt with by local legislation.</p>	

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001212 - 001631	Chairman Mr LEE Cheuk-yan Administration	Mr LEE Cheuk-yan stressed that the Labour Party supported the implementation of universal suffrage for the CE election in 2017, but not Proposals which were based on the restrictive framework imposed by the Decision of the Standing Committee of the National People's Congress ("NPCSC") on 31 August 2014 ("2014 Decision of NPCSC"). He said that the Central Authorities' officials had also confirmed at their recent meeting with Members in Shenzhen that the design of the electoral method was to prevent a minority of pan-democrats from running for the CE election. He considered that the 1 200 members of NC were only to perform a rubber-stamping role and any discussion on the nominating procedure was only empty talk. SCMA explained that under the Proposals, persons meeting the eligibility requirements stipulated in BL 44 would enjoy an equal right and opportunity to seek nomination from NC; and a person who could obtain recommendation jointly by 120 NC members in their individual capacities could become a member seeking nomination for the CE election.	
001632 - 002359	Chairman Mr IP Kin-yuen Ms Claudia MO Administration	Mr IP Kin-yuen considered that further discussion would not be meaningful as the Central Authorities' officials had already made it clear that no changes would be made to the Proposals. Ms Claudia MO expressed the view that under the Proposals, the right to stand for election under BL 26 was deprived as such right would be subject to unreasonable restrictions, and the right to vote under BL 26 was also undermined as voters' choice would be very much limited. SCMA advised that the Proposals did not contain any differential treatment of different persons on the ground of political opinions. Persons seeking nomination, regardless of their political affiliation, could take part in the election and seek nomination by NC on the basis of their own competence.	
002400 - 003311	Chairman Ms Cyd HO Ms Emily LAU Administration	Ms Emily LAU considered that the Proposals, based on the framework laid down by the 2014 Decision of NPCSC, failed to give Hong Kong people genuine universal suffrage. It would be impossible for persons who were from the pan-democratic camp to be nominated as they	

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		<p>would be unable to secure the endorsement of more than half of all the members of NC. She cited the view expressed by Mr LAM Woon-kwong, Convenor of the Executive Council, that under the Proposals, no one from the pan-democratic camp could take part in the 2017 CE election, and they could at most only be "Kingmakers", voting for one of the candidates from the pro-establishment camp.</p> <p>SCMA explained that whether or not a person could secure nomination by NC would entirely depend on his or her political strength as there was no additional eligibility requirement other than those set out in BL 44. He stressed that CE had to strike a balance among the interests of various sectors of the community. Therefore, under the Proposals, a person seeking nomination, irrespective of his/her political affiliation, would have to appeal to NC members for their support of his/her electoral platform, and the candidate must demonstrate that he/she was able to respond to the aspirations of the public and able to meet the needs of various sectors.</p>	
003312 - 003739	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK Ka-ki expressed concern that if the Proposals were to be "pocketed first", the Central Authorities and the Hong Kong Special Administrative Region Government would consider that the universal suffrage as prescribed in BL 45 had been attained and they would not seek to improve the universal suffrage system beyond 2017.</p> <p>SCMA explained that Article 7 of Annex I to BL and the "Five-step Process" of constitutional development set out in the 2004 Interpretation had provided the legal basis for initiating further amendments to the method for selecting CE in future.</p>	
003740 - 004337	Chairman Dr LAM Tai-fai	Dr LAM Tai-fai considered that the Central Authorities' stance expressed at the Shenzhen meeting on 31 May 2015 should not be misinterpreted by some Members.	
004338 - 005429	Chairman Mr IP Kwok-him Dr CHIANG Lai-wan Administration	Dr CHIANG Lai-wan believed that the electoral arrangements could be further improved after universal suffrage was implemented for the selection of CE in 2017.	

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005430 - 005652	Chairman Mr Christopher CHEUNG Administration	Mr Christopher CHEUNG called on Members belonging to the pan-democratic camp to change their mind about voting against the Proposals.	
005653 - 010616	Chairman Mr CHAN Chi-chuen Mr Jeffrey LAM Administration	In response to members' enquiry, SCMA explained that if the Proposals failed to obtain the endorsement by a two-thirds majority of all Members of Legislative Council ("LegCo"), the method for selecting CE in 2012 shall continue to apply. Furthermore, nobody could tell when the community could restart the discussion to implement universal suffrage for the CE election.	
010617 - 011312	Chairman Mr Alan LEONG	Mr Alan LEONG's request for clarifications on whether the method for selecting CE in 2012 would continue to apply if the Proposals failed to obtain the endorsement by a two-thirds majority of all Members of LegCo and, if so, the legal basis for such a position.	Admin (paragraph 2 of minutes)
011313 - 012259	Chairman Dr Helena WONG Mr Albert HO Administration	In response to members' enquiry, SCMA explained that NC members "shall discharge their duties in their individual capacities" under the proposed amendment.	
012300 - 012726	Chairman Mr Frederick FUNG	Mr Frederick FUNG remained of the view that the Proposals would not allow people with different political backgrounds to stand as candidates.	
012727 - 013133	Chairman Mr NG Leung-sing	Mr NG Leung-sing called on Members to vote for the Proposals having regard to the overall interests of Hong Kong. Concerning the rights to vote and to be elected, he considered that restrictions could be imposed provided that they were not unreasonable.	
013134 - 013630	Chairman Mr Michael TIEN Administration	In response to Mr Michael TIEN's enquiry on the nomination arrangements, SCMA explained that it was proposed that NC should nominate two to three CE candidates through voting by secret ballot, and each NC member could vote for all persons seeking nomination, or vote for only some of such persons (at least two persons). Hence, NC members could consider each person seeking nomination on the basis of merits without being constrained by any cap on the number of persons for whom they could vote. Further, voting by secret ballot was to avoid pressure	

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		being exerted on individual NC members by requiring them to express publicly their support for certain persons seeking nomination.	
013631 - 014457	Chairman Mr LEE Cheuk-yan Mr WU Chi-wai Ms Cyd HO	Mr WU Chi-wai envisaged that the community would become more divided if Members who voted against the Proposals would be regarded as confronting the Central Authorities and undermining the "one country, two systems" principle. Ms Cyd HO expressed opposition to nomination by secret ballot. She considered that NC members should exercise their power of making nominations in an open and accountable manner.	
014458 - 015549	Chairman Dr CHIANG Lai-wan Dr LAM Tai-fai Mr James TIEN Mr Christopher CHUNG	Some members considered that the successful implementation of universal suffrage would bring positive changes to governance in Hong Kong. They also believed that the electoral arrangements could be further improved after universal suffrage was implemented for the selection of CE in 2017.	
015550 - 020010	Chairman Mr Paul TSE Administration	Mr Paul TSE was concerned whether the Administration would come up with proposals to enhance the democratic element of the CE election in 2017 (e.g. adjusting the composition and electorate base of EC and the voting arrangement) should the relevant motion be vetoed by LegCo. SCMA advised that based on the experience in 2005, after the package of proposals for amending the two electoral methods put forth by the Administration were voted down by LegCo, there would be no policy changes at the local legislation level but only necessary technical amendments would be made.	
020011 - 020255	Chairman Mr Michael TIEN Administration	The Administration's further explanation of the nomination arrangements under the Proposals.	
020256 - 020506	Chairman Ms Emily LAU	Ms Emily LAU considered that the 1 200 NC members would conduct political screening to ensure that only those who were favoured by the Central Authorities could stand as candidates.	
020507 - 020658	Chairman Mr Albert HO	Mr Albert HO expressed opposition to nomination by secret ballot. He also expressed	

Time Marker	Speaker(s)	Subject(s)	Action required
		dissatisfaction that specific procedures to deal with the situation where more than three persons seeking nomination could obtain endorsement of more than half of all NC members had yet to be made available for members' deliberation.	
020659 - 021112	Mr James TIEN Chairman Administration	Completion of scrutiny of draft motion concerning the amendment to the method for the selection Legislative timetable	

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