

立法會
Legislative Council

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**Legislative Council
Panel on Constitutional Affairs**

**Minutes of meeting
held on Thursday, 14 October 1999 at 4:30 pm
in the Chamber of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon LEE Wing-tat
Hon Ronald ARCULLI, JP
Hon CHEUNG Man-kwong
Hon Gary CHENG Kai-nam
Hon Jasper TSANG Yok-sing, JP
Hon Ambrose LAU Hon-chuen, JP

Members Absent : Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon Margaret NG
Hon Ambrose CHEUNG Wing-sum, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah

Public Officers Attending : Mr Michael M Y SUEN
Secretary for Constitutional Affairs

Ms Carol YIP
Acting Deputy Secretary for Constitutional Affairs (1)

Mr Robin IP
Deputy Secretary for Constitutional Affairs (2)

Mrs Maureen CHAN
Deputy Secretary for Constitutional Affairs (3)

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Mrs Justina LAM
Assistant Secretary General 2

Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

Action
Column

I. Briefing by the Secretary for Constitutional Affairs on the Chief Executive's Policy Address 1999

(LC Paper No. CB(2) 115/99-00(01))

Introduction

At the invitation of the Chairman, Secretary for Constitutional Affairs (SCA) briefed members on the Policy Address 1999 by the Chief Executive (CE). He said that in order to maintain confidence in the constitutional arrangements of the Hong Kong Special Administrative Region (HKSAR), the Constitutional Affairs Bureau (CAB) would continue to work on the following key areas to achieve the Policy Objective -

- (a) To ensure the full implementation of the Basic Law and promote understanding of the Basic Law;
- (b) To ensure the smooth and effective functioning of the existing and new channels of communication and co-operation with the Mainland authorities;
- (c) To facilitate the HKSAR's continued and active participation in the international arena;
- (d) To ensure continual development of the electoral systems; and
- (e) To implement necessary changes to the structure and functions of district organizations.

2. The full text of SCA's briefing on CE's Policy Address 1999 was set out in his speaking note which was tabled at the meeting and also issued to members vide LC Paper No. CB(2) 115/99-00(01).

Constitutional development

3. Mr LEE Wing-tat said that he did not have much confidence in the constitutional development in the HKSAR. The Administration's proposal to abolish the municipal councils would result in retrogression in democratization. He was also dissatisfied with CE's repeated remarks that there were divergent views on the pace of democratic development for Hong Kong in that some considered the pace to be too fast, and some not too fast. He said that although there was no consensual view in the community, it was clear that the majority of the public wished to have a fully representative government and legislature. He asked whether the Administration had any plans to expedite the pace of democratic development.

4. SCA responded that the blueprint for the constitutional development of Hong Kong set out in the Basic Law had provided for a progressive development of democratic institutions. According to the Basic Law, the number of geographical seats would be increased from 20 to 24 in the second term LegCo, and to 30 in the third term LegCo. The ultimate aim was to return all 60 seats by universal suffrage. Any proposal to expedite the pace of democracy prior to 2007 would mean changing the composition of the third term LegCo election in 2004. Such a proposal would involve amending the Basic Law and would give rise to a lot of other issues. He held the view that efforts should better be spent on developing constitutional development in accordance with the blueprint of the Basic Law.

5. Noting that Annex II to the Basic Law allowed for changes to be made to the composition of LegCo after 2007, Mr TSANG Yok-sing said that the Democratic Alliance for the Betterment of Hong Kong (DAB) was in support of conducting a review on constitutional development before 2007. It would be a meaningful event to conduct such a review in 2000 to commemorate the tenth anniversary of the promulgation of the Basic Law.

6. Referring to CE's remark in paragraph 150 of the Policy Address that "I hope that by 2007, a mature view will have emerged in the community on the development of the political structure", the Chairman asked whether discussion on constitutional development could be held prior to 2007.

7. SCA responded that there must be an open process by which "a mature view" on the development of the political structure would emerge in the community by 2007. There was ample time between now and 2007 for the HKSAR to develop that view. As a first step, the Administration would study the different systems of government adopted in other parts of the world with a view to working out a constitutional model that was suitable to its circumstances.

8. Pointing out that the word "mature" in "a mature view" was subject to different interpretations and was not quantifiable, Mr LEE Wing-tat criticized that CE was playing with words in order to delay the progress of democracy. He said that the Administration should conduct a review now given the views expressed by both the Democratic Party and the DAB. As regards whether the Basic Law needed to be amended as a result of the review, this was a separate issue.

9. SCA responded that there was no legal basis for election of all 60 LegCo Members by universal suffrage prior to 2007. Unless the Basic Law was amended, the pace of democratic development must follow the blueprint of the Basic Law. He said that "a mature view" could only be formed after a process of rational discussions, and a decision on the political structure for Hong Kong could not be reached before the subject was fully debated.

10. Mr TSANG YOK-sing opined that the review should be conducted well before 2007, as the electoral arrangements for the fourth term LegCo in 2008 would have impact on the political development in the coming few years. For instance, individual candidates and political parties would like to know at an early stage whether or not the functional constituency system would be retained in order to plan their future strategies. SCA drew members' attention to the fact that Article 68 of the Basic Law had stated clearly that the ultimate aim was the election of all LegCo Members by universal suffrage.

11. SCA added that the purpose of this meeting was for him to brief members on the objective and work of the CAB in the year ahead. As the Administration was heavily engaged in making practical arrangements for the election of the second term LegCo in 2000, it was not in a position to conduct such a review in 2000. However, he did not rule out the possibility of reviewing the pace of democracy before 2007. What he was trying to emphasize was that "a mature view" should emerge by 2007 the latest. If such a view emerged well before 2007, the Administration would take appropriate action taking into account the prevailing circumstances and the aspirations of the community.

12. Referring to the last paragraph of Annex II of the Basic Law, the Chairman asked whether it was possible for a decision to change the composition of the LegCo to be made before 2007, but to be implemented after 2007. SCA undertook to respond to the Chairman in writing.

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Voter registration

13. Mr TSANG Yok-sing said that some members of his party who intended to stand for District Councils (DC) election in November 1999 were not eligible to do so because they found out in February this year that they had

ceased to be registered electors due to their failure to report changes of residential address to the Electoral Registration Officer. Mr TSANG and the Chairman asked about the respective timetable for the 2000 LegCo election and the 1999 DC election.

14. SCA responded that an eligible person could register as an elector at any time of a year. However, in order to be eligible to vote in an election, a person must be registered before the specified deadline. Deputy Secretary for Constitutional Affairs (2)(DSCA) supplemented that when the voter register was prepared for the DC election in 1999, it was decided that the LegCo election Final Register should be used as the basis. The Legislative Council Ordinance provided a mechanism to publish provisional and Final Registers for the LegCo election annually. Following the provisions in the Legislative Council Ordinance, the Provisional Register and the Final Register were published in mid February and late September 1999 to show the DC constituencies to which the electors belonged. Starting in 2000, a separate register for DC election would no longer be necessary as the Final Register would show both the LegCo geographical constituency and DC constituency to which an elector belonged. To narrow the time gap between voter registration and future elections, the voter registration cycle could be adjusted. He advised members of the timeable for the voter registration cycle as follows :-

(a)	<u>1999 DC election</u>	<u>Actual Date</u>
	- deadline for voter registration	16 January 1999
	- compilation of Provisional Register	12 February 1999
	- publication of Final Register	26 March 1999
	- publication of register for DC election	24 September 1999
	- DC election	28 November 1999
(b)	<u>2000 LegCo election</u>	<u>Target date</u>
	- deadline for voter registration	mid March 2000
	- publication of Provisional Register	mid April 2000
	- publication of Final Register	end of May 2000
	- Election Committee subsector elections	July 2000
	- LegCo election	September 2000

15. Mr TSANG Yok-sing pointed out that the time gap between publication of the provisional register on 12 February 1999 and the DC election in November 1999 was unreasonably long. DSCA responded that the arrangements of the 1999 DC election were not ideal. However, he assured members that the arrangement would be improved in future as the deadline for voter registration would be scheduled nearer to the election day.

Speaking note of the SCA

Paragraph 7

16. Referring to paragraph 7 of the speaking note that some 2000 visits were arranged in 1998 between the HKSAR and the Mainland, Mr LEE Wing-tat asked how the itineraries of these visits were drawn up. He also asked whether the Administration would consider arranging Mainland delegations to meet with a wide spectrum of people from the community, including for instance, meeting with Mr LEUNG Kwok-hung of the April Fifth Action Group or Mr HO Hei-wah of the Society of Community Organizations, so that the Mainland visitors could have a comprehensive view of the HKSAR.

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17. SCA responded that Mainland delegations were received by different bureaux and departments and not by CAB alone. Since the aim of the visits was to enhance the visitors' understanding in the work of their counterparts in the HKSAR government, arrangements were made for them to visit the corresponding bureaux and departments. The itinerary would take into account various considerations including the nature, purpose and duration of the visit as well as the preference of visitors. In further response to Mr LEE, SCA undertook to relay his views to bureaux and departments for consideration. He made it clear that unless delegations had made a specific request, the Administration would not make special arrangement for them to meet with community groups. The Chairman added that the preference of the visitors must be respected.

Paragraph 16

18. Pointing out that the Basic Law stipulated that the ultimate aim was the election of all Members of the LegCo by direct election, Mr CHEUNG Man-kwong asked SCA why he had remarked in paragraph 16 of his speaking note that one should not focus on the number of directly elected seats. SCA responded that the sentence in his speaking note was "one should not *only* focus on the number of directly elected seats". In other words, the number of directly elected seats should not be the only consideration as far as the political development in the HKSAR was concerned.

Paragraph 17

19. Mr CHEUNG Man-kwong asked about the basis for SCA's remark in paragraph 17 that "In accordance with the spirit of the Basic Law, it was necessary to establish an executive-led political structure".

20. SCA explained that the Basic Law had provided a new constitutional framework for the HKSAR. The role and functions of CE, LegCo and the

Government of the HKSAR after the handover were different from those of the colonial era. Article 73 set out the functions and role of the LegCo. Article 64 stipulated that the Government of the HKSAR must abide by the law and be accountable to LegCo. Article 48 spelt out the functions of CE, one of which was to lead the government of the HKSAR. Article 62 made it clear that the Government of the HKSAR was responsible for, inter alia, formulating and implementing policies. Since the Government was responsible for initiating policies, it was his understanding that the political structure of the HKSAR should be an executive-led system.

21. Mr CHEUNG Man-kwong did not agree to SCA's interpretation. He pointed out that the function of CE to lead the HKSAR Government was not equivalent to an executive-led government. He said that SCA's interpretation had changed the spirit of the Basic Law and the relationship between the Government and LegCo. Under an executive-led political structure, there would not be mutual checks and balances between the two bodies. He did not understand how SCA could arrive at the conclusion that it was the spirit of the Basic Law to establish an executive-led government.

22. SCA responded that Hong Kong was an open and fair society, and every one was entitled to express his own views. An executive-led government did not imply that the power of LegCo would be undermined. In fact, the division of functions of the two bodies was clearly provided for in the Basic Law. The relationship between the Government and the LegCo was a co-operative one based on mutual checks and balances.

23. The Chairman said that he also did not agree to SCA's views. However, this Policy Address briefing meeting was not the right forum to debate the subject. SCA agreed.

24. The meeting ended at 5:37 pm.