

立法會

Legislative Council

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Paper for the House Committee meeting on 20 June 2003

Background to and effect of the resolution made by Panel on Constitutional Affairs at its meeting on 16 June 2003

Purpose of paper

This paper briefs Members on the background to and effect of the resolution made by the Panel on Constitutional Affairs (CA Panel) at its meeting on 16 June 2003.

Background

Public consultation exercise on constitutional development

2. The Administration has previously stated that a review on constitutional development would likely be conducted in 2004 or 2005. As regards the scope of the review, the Administration is studying, among other things, whether the reference to "the method for selecting the Chief Executive for the terms subsequent to the year 2007" in paragraph 7 of Annex I to the Basic Law should include the method for selecting the third term Chief Executive (CE) in 2007. According to the Administration, it has not yet come to a view on the legal interpretation of the relevant reference in paragraph 7 of Annex I to the Basic Law.

3. At the CA Panel meeting on 19 May 2003, Hon Emily LAU suggested and the Panel agreed that the matter should be discussed and interested parties consulted at the meeting of the Panel on 16 June 2003.

Meeting of CA Panel on 16 June 2003

4. For the discussion on the matter at the meeting on 16 June 2003, the Panel specifically invited views on -

- (a) the interpretation of paragraph 7 of Annex I to the Basic Law, i.e. whether "the terms subsequent to the year 2007" should include the third term CE whose tenure of office commences on 1 July 2007; and
- (b) whether the method for selecting the third term CE in 2007 should be included in the review on constitutional development to be conducted by the Administration in 2004 or 2005.

5. Over 370 submissions were received, and 35 organisations and individuals attended the meeting on 16 June 2003 to give oral representations to the Panel.

6. Towards the end of the meeting, some members expressed the view that as constitutional development had been discussed by the Panel on many occasions and as a lot of views had been expressed by the deputations in relation to the review of the method for selecting CE, the Panel should not further discuss the subject matter until the Administration had analysed the views received.

7. The following motion was moved by Hon NG Leung-sing -

“本人動議‘檢討《基本法》所訂行政長官的產生辦法’，待行政當局作出意見收集研究後，本委員會再續討論。”

(“That I move that this Panel should resume the discussion on the ‘Review of the method for selecting the Chief Executive under the Basic Law’ only after the Administration has collated and studied all the views received on the subject matter.”)

The motion was put to vote. Seven members voted in favour of the motion and one member voted against the motion.

Effect of the resolution

8. At the meeting, Hon Emily LAU requested the Legislative Council Secretarial to explain to Members -

- (a) the effect of the resolution; and
- (b) the extent to which the resolution is binding on the CA Panel and other committees of the Council.

9. On question (a) in paragraph 8 above, the resolution is a formal decision of the Panel as to when discussion concerning the review on the method for the selection of CE is to resume. It will have to be followed by the Chairman in proposing the agenda of meetings and in the determination of the agenda by the Panel as a whole.

10. As regards question (b) in paragraph 8 above, Rule 77(15) (*Panels*) of the Rules of Procedure provides that -

"(15) Subject to these Rules of Procedure, the practice and procedure of a Panel or its subcommittee shall be determined by that Panel. In any such determination, a Panel shall take into account any guidelines provided under Rule 75(8) (House Committee)."

11. It is noted that there is no provision in the Rules of Procedure governing the binding effect of a Panel's decision on the Panel itself. However, there are clear provisions in rule 24(1) and (r) (*Guidelines for the Conduct of Meetings*) of the House Rules that -

"(l) The decisions of a committee should not be reopened for discussion, unless with the permission of the committee.

.....

(r) The chairmen may, with the agreement of committees, exercise some flexibility in applying the above guidelines."

12. As to the binding effect of the decision of the CA Panel on other committees, it may have such an effect on any subcommittee set up by the Panel. It should not otherwise bind any other committees, which are constituted separately from the CA Panel under the Rules of Procedure.

Advice sought

13. Members are invited to note this paper.

Legislative Council Secretariat

19 June 2003

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