

立法會
Legislative Council

LC Paper No. CB(2) 2212/02-03

Ref: CB2/H/1

Paper for special House Committee meeting on 6 June 2003

**Chronology of developments relating to discussion between
Members and the Administration on
the timing for delivering the Policy Address and Budget
prepared by Legislative Council Secretariat**

Date	Developments	Relevant papers
24 and 25 June 2002	<p>The Chief Secretary for Administration (CS) informed the Chairman of the House Committee at their meeting on 24 June 2002 that the Administration had decided to change the timing for delivering the Policy Address to January to narrow the time gap between the Policy Address and Budget.</p> <p>CS confirmed the new arrangement in a letter dated 25 June 2002 to the Chairman.</p>	<p>CS's letter dated 25 June 2002 is in Appendix A.</p>
28 June 2002	<p>The House Committee decided on 28 June 2002 to invite CS to attend a special meeting on 5 July 2002, given the queries and concerns raised by Members about the new arrangement.</p> <p>CS wrote to the Chairman on 3 July 2002 informing the Chairman that Acting CS, Mr Michael SUEN, would attend the special meeting and explaining that the reasons for the new arrangement were -</p> <p>(a) to narrow the time gap between the Policy Address and Budget; and</p> <p>(b) to allow time for the newly appointed Directors of Bureaux to identify their respective priorities in support of the Chief Executive (CE)'s Policy Address.</p>	<p>CS's letter dated 3 July 2002 is in Appendix B.</p>
5 July 2002	<p>At the special meeting of the House Committee on 5 July 2002, Members expressed strong dissatisfaction that the Administration had not consulted the Legislative Council (LegCo) on the new timetable for delivering the Policy Address and Budget.</p>	<p>Extract from the minutes of the special meeting on 5 July 2002 is in Appendix C.</p>

Date	Developments	Relevant papers
	<p>As Members had reservations about implementing the new timetable on a long term basis, the Chairman proposed and Acting CS agreed that the Administration would discuss with the the Committee on Rules of Procedure (CRoP) as early as possible the detailed arrangements for the debate on the next Policy Address under the new timeframe.</p> <p>To facilitate Members' discussion, a background paper on Rule 13(1A) of the Rules of Procedure was prepared by the LegCo Secretariat for the special meeting on 5 July 2002.</p> <p>The extract from the progress report of CRoP (for the period from July 1998 to April 1999) was also provided to Members for reference.</p>	<p>The background paper (CROP 27/01-02) is in Appendix D.</p> <p>The extract is in Appendix E.</p>
24 July 2002	<p>In a letter dated 24 July 2002 to the Chairman, the Director of Administration (D of Adm) provided for Members' information the revised consultation timetable for the Policy Address and Budget.</p>	<p>D of Adm's letter is in Appendix F.</p>
September 2002 to May 2003	<p>CRoP discussed the matter at a number of meetings.</p> <p>CRoP received a research report on "Commencement of legislative session and its relationship with timing of Policy Address and Budget speech in overseas jurisdictions" prepared by the LegCo Secretariat.</p> <p>In his letter dated 2 January 2003 to CRoP, D of Am advised that the Administration would consider the full implications of the various options for narrowing the time gap between the Policy Address and Budget. The options included -</p> <p>(a) for CE to deliver his Policy Address in January of the year, and for the Budget to be delivered in March of the year;</p> <p>(b) for CE to deliver his Policy Address at the beginning of a new LegCo session in early October of the year, and for the Budget to be delivered in January of the following year; and</p>	<p>The research report (CROP 38/01-02(01)) is in Appendix G.</p> <p>D of Adm's letter is in Appendix H.</p>

Date	Developments	Relevant papers
	<p>(c) taking into account the commencement of the term of CE in July, for CE to deliver his Policy Address in July of the year, and for the Budget to be delivered in September of the year.</p> <p>CRoP studied the implications on the operation of LegCo of the above three options in a paper prepared by the LegCo Secretariat.</p> <p>At its meeting on 7 April 2003, CRoP considered the Administration's paper on "Future Timetable for the Policy Address and Budget" which set out the findings of the Administration's review of the matter.</p> <p>In response to CRoP's request, D of Adm undertook to convey CRoP's desire that the Administration should reconsider the future timetable for delivering the Policy Address, taking into account members' strong views that the Administration had not established a convincing case for shortening the time gap between the delivery of the Policy Address and Budget, and that the conclusion reached by the Administration in its review reflected a lack of sincerity in consulting Members of the Council on the issue.</p>	<p>CRoP's paper (CROP 31/02-03) is in Appendix I.</p> <p>The Administration's paper is attached to CROP 55/02-03 in Appendix J.</p>
9 May 2003	<p>CRoP reported its views and the current position of the discussion with the Administration to the House Committee on 9 May 2003, as follows -</p> <p>(a) most CRoP members considered that the Administration had not established a convincing case for narrowing the time gap between the delivery of the Policy Address and Budget to two months;</p> <p>(b) most CRoP members considered that delivering the Policy Address in October was a more suitable arrangement for the operation of LegCo; and</p> <p>(c) the current definition of "financial year" should remain unchanged.</p>	<p>CRoP's paper (CROP 55/02-03) is in Appendix J.</p>

Date	Developments	Relevant papers
	Members requested that the Administration should respond to CROP's views as soon as possible, and that its response should still be a proposal and not a decision.	
12 May 2003	The Chairman conveyed Members' request to CS.	
14 May 2003	CS provided the Administration's response on the matter in his letter dated 14 May 2003 to the Chairman. CS states in his letter that the Administration believes that, on balance, the 2003 timetable represents the best arrangement and should be adopted for the coming few years.	CS's letter is in <i>Appendix K</i> .
16 and 23 May 2003	At the House Committee meetings on 16 and 23 May 2003, Members agreed that the timetable for delivering the Policy Address and Budget should be discussed with CS at the special meeting of the House Committee on 6 June 2003.	

Appendix A

Tel No.: 2810 2323
Fax No.: 2524 5695

25 June 2002

The Honorable Selina CHOW LIANG Shuk-ye, JP
Chairman of the House Committee
Legislative Council
8 Jackson Road
Central
Hong Kong

Timing for the Delivery of Policy Address

As discussed at our regular meeting yesterday, the Administration has reviewed the timing for the delivery of the Chief Executive's Policy Address. I am writing to set out the new timetable, and explain the rationale behind the change.

The practice has been for the Chief Executive to deliver his Policy Address in October of the year, and for the Financial Secretary to announce the Budget in March the following year. There is thus a five-month gap between the Policy Address and the Budget. This has resulted in a considerable delay in the implementation of those proposals in the Chief Executive's Address which require new funding. This delay has given rise to public concern. To rectify this, we intend to change the delivery date of the Policy Address. Let me explain our plan.

Starting from the next Legislative Council session, the Chief Executive proposes to deliver his Policy Address in the second week of January. Timing for the Budget will remain unchanged. According to

this new timetable, the next Policy Address will be delivered on 8 January 2003, and the Budget speech on 5 March 2003. The new arrangement will enable us to narrow the time gap between the Policy Address and Budget, and in turn ensure the speedy implementation of new policy initiatives, to the benefit of the community at large.

We appreciate that the delivery date of the Policy Address may have implications for the Legislative Council's annual work plan. We would therefore wish to give Members early notice of the new timetable. I should be grateful if you could inform Members of our plan at the coming House Committee meeting, so as to facilitate Members in planning their work ahead. The Director of Administration stands ready to discuss with Members the revised timetable and arrangements for Members' debate on the Policy Address.

(Donald Tsang)
Chief Secretary for Administration

Appendix B

Tel No.: 2810 2323
Fax No.: 2524 5695

3 July 2002

The Honorable Selina CHOW LIANG Shuk-ye, GBS, JP
Chairman of the House Committee
Legislative Council
8 Jackson Road
Central
Hong Kong

Timing for the Delivery of Policy Address

Thank you for inviting me to attend the House Committee meeting on 5 July, to explain to Members the rationale behind the new timetable for delivering the Policy Address.

Allow me to repeat here, for Members' reference, the two major considerations prompting our decision to adjust the timing for delivering the Policy Address. I explained them to you during our meetings on 24 June and 2 July.

First, as I have highlighted in my letter of 25 June, narrowing the time gap between the Policy Address and Budget will help ensure speedy implementation of new initiatives announced in the Policy Address that require new funding. This will be of benefit to the community as a whole.

Second, as Members no doubt appreciate, the new team of the Principal Officials is just in place. The newly appointed Directors of Bureaux will need time in their new office to review on-going programmes, consult the relevant constituencies and stakeholders, and identify their respective priorities in support of the Chief Executive's next Policy Address. Taking into account the lead-time required to prepare the actual Address, keeping the existing timetable of delivering the Policy Address at October of the year will not be a realistic or practical option.

It is against this background that we have decided to defer the delivery of the next Policy Address to January next year, and to deliver subsequent Chief Executive's Policy Addresses in January every year. I appreciate that this new timing may have implications for the Legislative Council's annual work plan. I thus took the first available opportunity of our regular meeting on 24 June to inform Members of our intention.

I shall be away on overseas duty coming Thursday and Friday and am sorry for not attending the House Committee meeting on 5 July. Although I shall not be able to elucidate in person the rationale behind changing the timing for the Policy Address, Mr Michael Suen, Acting Chief Secretary for the Administration in my absence, has already re-arranged his commitments for the day so that he could attend the House Committee meeting to speak on behalf of the Administration and respond to Members' questions.

(Donald Tsang)
Chief Secretary for Administration

**Extract from Minutes of Special House Committee
Meeting of the Legislative Council held on 5 July 2002**

X X X X X X X X

I. Report by the Chairman on her meeting with the Chief Secretary for Administration (CS) on 2 July 2002

Timing for the delivery of Chief Executive (CE)'s Policy Address

14. The Chairman said that at their meeting with CS on 2 July 2002, CS had reiterated the justifications for changing the timing for delivery of the Policy Address as mentioned at their meeting in the previous week and in his letter dated 25 June 2002. CS had advised that the Policy Addresses in the 1960's and 1970's were not delivered in October, and the provision regarding timing in Rule 13(1A) of the Rules of Procedure was not obligatory. CS had also advised that as the new principal officials needed time to familiarise themselves with their respective portfolios and provide input to the preparation of the Policy Address, it would be desirable for the Policy Address to be delivered in January 2003.

15. The Chairman informed Members that she had explained to CS that Members considered the change of the timing of the Policy Address an important one, the implementation of which would be more effective with consultation and discussion with LegCo. The Chairman added that she had stressed that as a matter of mutual respect, the Administration should have consulted LegCo.

16. The Chairman advised that the matter would be discussed under agenda item II below. She said that as CS was currently in the United Kingdom (UK) for the celebrations of the fifth Anniversary of the Hong Kong Special Administrative Region (HKSAR), Mr Michael SUEN, Ag CS, would attend the discussion.

II. Timing for the Delivery of Policy Address

(LC Paper No. CROP 27/01-02)

(CS's letter dated 3 July 2002 on "Timing for the Delivery of Policy Address")

(Dr Hon YEUNG Sum's letter dated 4 July 2002)

17. The Chairman said that Members agreed at the last House Committee meeting that they should discuss among themselves

before meeting with CS at 3:30 pm. The Chairman further said that the LegCo Secretariat had prepared a paper on the background of Rule 13(1A) of the Rules of Procedure, which was made by a resolution of LegCo on 28 April 1999. The Chairman advised that the Committee on Rules of Procedure (CRoP) discussed the matter in detail and exchanged views with the Administration when Rule 13(1A) was made in 1999. She added that an extract from the relevant parts of CRoP's progress report for the period July 1998 to April 1999 was tabled at the meeting for Members' easy reference.

18. Dr YEUNG Sum welcomed the arrangement for Members to discuss among themselves before meeting with CS. Referring to paragraph 3.13 of CRoP's progress report, Dr YEUNG said that when Members were consulted in October 1998, most of the 58 Members who had responded were in favour of a new session commencing in October to tie in with the delivery of the Policy Address. Dr YEUNG further said that Members belonging to the Democratic Party maintained the same view. He pointed out that it was the convention for a session to commence in October, and for the Chief Executive (CE) (or the former Governors of Hong Kong) to deliver his Policy Address at the beginning of a new session, to be followed by presentation of the Budget in March. He added that it was also the convention for LegCo to have a debate on the Policy Address and for LegCo Panels to plan their work after receiving the Policy Address.

19. Assistant Secretary General 1 clarified that during the consultation conducted by CRoP in 1998, Members were asked separately on whether they were in favour of the first meeting of a session tying in with the delivery of the Policy Address, and on different options for the commencement and ending of sessions. Assistant Secretary General 1 said that most of the Members who responded at that time were in favour of having a new session commencing in October, and also having a new session tying in with the delivery of the Policy Address.

20. Dr YEUNG Sum stressed that the delivery of the Policy Address by CE at the beginning of a new session had the important symbolic meaning of Executive Authorities being accountable to the Legislature. Dr YEUNG said that it was most regrettable that the Administration had now changed the timing for the delivery of the Policy Address unilaterally, and such a change had great implications on the operation of LegCo.

21. Mr IP Kwok-him thanked the LegCo Secretariat for

preparing the background paper on the making of Rule 13(1A) of the Rules of Procedure in 1999. Mr IP said that while he appreciated that there were good reasons for the Policy Address to be delivered at the beginning of a new session, he did not find it unacceptable for the Policy Address to be delivered in January. Mr IP further said that Members belonging to the Democratic Alliance for Betterment of Hong Kong did not have strong views on the timing for the delivery of the Policy Address. He added that as the new principal officials had just assumed office, it was reasonable to allow time for them to familiarise with their policy portfolios and to formulate their work plans. Mr IP considered, however, that there should be prior consultation and discussion with LegCo, even if the Administration had the authority to change the timing of the Policy Address. He added that the Administration should respect the practice of LegCo and views expressed by Members concerning the timing of the Policy Address.

22. Mr LEE Cheuk-yan commented that the proposed change of timing for delivery of the Policy Address and the Budget would not only affect the operation of LegCo, but also shorten the time for public consultation. Mr LEE stressed that as a matter of principle, the Administration should not make changes which might affect LegCo without prior consultation and discussion. He was of the view that the existing practice should continue, and there should be detailed discussion before a decision was made on the future arrangements for the Policy Address and the Budget.

23. Ms Emily LAU said that the point at issue was that the Administration had not consulted LegCo on the new arrangement which affected the operation of LegCo. She further said that while Members seemed to have accepted that flexibility should be provided for CE to deliver his Policy Address when Rule 13(1A) was made in 1999, the understanding was that the Policy Address should be delivered at the first meeting of a session. She added that during the discussion in 1999, although the Administration did not consider Rule 13(1A) necessary, it had not disagreed that CE was to deliver his Policy Address at the first meeting of a session. Ms LAU said that she was shocked to learn that the Administration had now decided to change the arrangement unilaterally without prior discussion with LegCo. She said that there were good reasons for the existing practice, and she could not accept that the new timing for the Policy Address should be adopted for the whole five-year term of CE.

24. Ms Emily LAU suggested that the LegCo Secretariat should research into the practice of advanced overseas countries on the commencement of a legislative session and its relationship with the preparation/presentation of the policy address and the budget. She also suggested that the study should include how the budget of these countries was presented to their parliaments, for example, whether the revenue and expenditure parts of the budget were presented separately on two different occasions. Ms LAU considered that the information would assist Members in considering future arrangements for the commencement of a session, as well as the timing for delivery of the Policy Address and the Budget.

25. The Legal Adviser pointed out that the formulation of Rule 13(1A) of the Rules of Procedure reflected the practice and expectation of LegCo that the Policy Address was to be delivered at the first meeting of a session which commenced in October. He said that in moving the resolution to add subrule (1A) to Rule 13 of the Rules of Procedure at the Council meeting on 28 April 1999, the Chairman of CRoP had stated that the provision in Rule 13(1A) was not to bind CE that he could only deliver his Policy Address at the first meeting of a session and not at any other time. The Legal Adviser also pointed out that while Article 64 of the Basic Law stipulated that the Government of the Hong Kong Special Administrative Region (HKSAR) "shall present regular policy addresses to the Council", there was no specific requirement on the frequency or the timing for such Policy Addresses. The Legal Adviser added that since the coming into effect of Rule 13(1A) of the Rules of Procedure in 1999, there was one occasion where the 2001 Policy Address was delivered by CE at the second meeting of the session.

26. The Chairman advised that before Rule 13(1A) was added to the Rules of Procedure in 1999, CRoP had thorough discussion on the relevant constitutional and operational issues, such as the commencement of a session and the timing for delivery of the Policy Address and the Budget. The Chairman said that CRoP had come to a view in 1999 that it was appropriate to add the new Rule 13(1A) to provide for the delivery of the Policy Address by CE at the first meeting in a session which normally commenced in October, based on the understanding that "the Administration will continue to plan on the basis that Policy Addresses in subsequent years will be delivered in the month of October". The Chairman pointed out that Rule 13(1A) was merely an enabling provision to facilitate CE to deliver his Policy Address, having regard to the practice in the past and operational

considerations.

27. The Chairman further said that it was a departure from the understanding in 1999 if the Administration had now decided to defer the Policy Address to January. She pointed out that in previous years, CE had delivered his Policy Address either at the first or second meeting of a session. The Chairman stressed that it was important for the Administration to understand that there should be a consultation process with LegCo on important changes which affected its operation.

28. Ms Cyd HO said that the delivery of Policy Address at the beginning of a session was to reflect that the Executive Authorities were accountable to the Legislature. Ms Cyd HO was of the view that Rule 13(1A) of the Rules of Procedure only provided the flexibility for CE to deliver his Policy Address at any meeting within October. She pointed out that CE had delivered his Policy Addresses at the second meeting of a session in 1998 and 2001 only because a general election had taken place, and Members were required to take their Oath and elect the President at the first meeting of a new term. Ms HO further said that while she accepted that the timing for delivery of the Policy Address could be changed, LegCo must first be consulted on the change and the Administration should also provide an overall assessment on how the operation of LegCo would be affected.

29. Mr SZETO Wah pointed out that the Administration's proposal sought to defer the timing for delivery of the Policy Address to January for the whole five-year term of CE, and to combine the consultations on the revenue and expenditure proposals for the Budget. Mr SZETO considered that the issue involved important matters such as the constitutional convention and the autonomy of LegCo. He said that the Government of the HKSAR was accountable to LegCo under the Basic Law, and therefore the Government must not give directions or "orders" to LegCo. He stressed that it was the duty of CE to deliver Policy Addresses to LegCo, and any changes in such arrangements should only be made through consultation and discussion with LegCo. He strongly criticised the Administration for not consulting LegCo on the change in the timing for the Policy Address.

30. Mr James TO said that it was clear from paragraphs 3.13 to 3.16 of CRoP's progress report that the first meeting of a session should tie in with the delivery of the Policy Address. Mr TO further said that there could be serious consequences for

the Administration to change the timing of the Policy Address unilaterally. He requested to put on record that he reserved the right to challenge the Administration's decision in court. He explained that he did not want to give the impression to the Administration that Members did not object to the proposal of deferring the Policy Address to January.

31. Dr YEUNG Sum said that he was not convinced of the explanation given in CS's letter dated 3 July 2002 that narrowing the time gap between the Policy Address and the Budget would help ensure speedy implementation of new initiatives announced in the Policy Address, and the arrangement would be of benefit to the community at large. Dr YEUNG said that it was totally unacceptable for the Administration to change the established practice of LegCo without good reasons and without prior consultation with LegCo. Dr YEUNG added that while the new principal officials might need more time to provide input to the next Policy Address, he would not agree that the arrangement should continue for the whole five-year term of CE.

32. Dr YEUNG further said that information on the practice in some advanced overseas countries was provided in his letter dated 4 July 2002 which was tabled at the meeting. He pointed out that in the United States, the United Kingdom and Taiwan, the newly elected governments could deliver their policy addresses within three months after the election. As for Hong Kong, Dr YEUNG said that the community expected the Government to introduce immediate measures to tackle pressing problems, such as the high unemployment rate. The public would be greatly disappointed if the Policy Address was deferred to January next year.

33. Mr LEUNG Yiu-chung asked whether it was possible for Members to reach a consensus on the timing for the Policy Address so that such view could be conveyed to Ag CS.

34. Dr YEUNG Sum suggested that Members could request the Administration to adhere to the existing practice of delivering the Policy Address in October. Ms Emily LAU and Ms Cyd HO concurred. Ms LAU added that in his letter dated 25 June 2002, CS had recognised that it was the practice for CE to deliver his Policy Address in October of the year. She considered that the existing practice should continue before new arrangements were worked out between LegCo and the Administration.

35. Mr IP Kwok-him said that he would not insist that the

Policy Address must be delivered in October if there were good reasons for deferring it to a later time.

36. Mr Andrew WONG said that the Administration's proposal actually raised two separate issues. Mr WONG was of the view that if there was a need to allow time for the new principal officials to provide input to the Policy Address, Rule 8 of the Rules of Procedure which provided that CE could address the Council at any time could cater for such a situation. As regards narrowing the time gap between the Policy Address and the Budget, Mr WONG said that this involved changing the long-standing practice of LegCo as the Policy Address was normally delivered in October. Mr WONG said that there should be detailed discussion with LegCo if the Administration intended to make it a long-term arrangement for the Policy Address to be delivered in January.

37. Mr LEUNG Yiu-chung requested that a vote should be taken on Dr YEUNG Sum's proposal, so that a majority view of the House Committee could be conveyed to Ag CS. The Chairman explained that the discussion amongst Members at the special meeting was only to enable Members to have a better understanding of the background to the promulgation of Rule 13(1A) in 1999. The Chairman advised that that the question before Members was whether they would agree to the Administration's proposal to change the timing for the Policy Address to January. She said that as Members had expressed different views on the Administration's proposal, it would not serve any useful purpose for a vote to be taken on any Member's proposal. She advised that Members should raise their concerns directly with Ag CS who had just arrived at the meeting.

Meeting with Ag CS

38. The Chairman welcomed Mr Michael SUEN, Ag CS, and other government representatives to the meeting.

39. The Chairman said that Members had expressed grave concern about the Administration changing the timing for the Policy Address without prior consultation with LegCo. She asked Ag CS to explain to Members why such changes were necessary and why no prior discussion with LegCo had taken place.

40. Ag CS said that Mr Donald TSANG, CS, had explained the reasons for the changes in his letters dated 25 June and 3 July

2002 and to the Chairman and Deputy Chairman during their regular meetings in the past two weeks. Ag CS explained that it was the past practice for CE to deliver his Policy Address in October of the year, and for the Financial Secretary to announce the Budget in March the following year. There was thus a five-month gap between the Policy Address and the Budget, and this had resulted in a considerable delay in the implementation of those proposals in CE's Policy Address which required new funding. The Administration therefore proposed to change the timing for the delivery of the Policy Address to the second week of January, in order to narrow the time gap between the Policy Address and the Budget. The purpose was to ensure speedy implementation of new initiatives announced in the Policy Address, and this would be of benefit to the community at large.

41. Ag CS further said that the new principal officials had just assumed office and needed time to review the on-going programmes, consult the relevant parties and stakeholders, and identify their respective priorities in support of CE's next Policy Address. Taking into account of the lead time required to prepare the actual Address, keeping the existing timetable of delivering the Policy Address at October of the year would not be realistic or practical.

42. Ag CS advised that the Administration had therefore decided to defer the delivery of the next Policy Address to January next year, while the timing for the delivery of the Budget would remain unchanged. Ag CS added that previously there were separate consultations on the revenue and expenditure proposals for the Budget. To allow more time for the new Directors of Bureau to consult Members and the relevant parties on the 2003-04 Budget, the consultations on the revenue and expenditure proposals for the Budget would be combined and take place in November/December 2002. The Administration believed that the new arrangement would enable Members and the public to monitor the implementation of the policy initiatives announced in the Policy Address more effectively.

43. Ag CS said that the Administration recognised that the timing for delivery of the Policy Address would have implications on the work plan of LegCo. CS had therefore taken the earliest available opportunity to inform Members of the new arrangement, through his regular meeting with the Chairman and the Deputy Chairman of the House Committee on 24 June 2002. Ag CS added that he and the Director of Administration (D of Adm) attended this special meeting of House Committee to

further explain the rationale for the revised timetable and exchange views with Members on the implications on LegCo's work plan.

44. Mr Andrew WONG sought clarification on whether the Administration's proposed new timetable would apply only to the next Policy Address or for the whole five-year term of CE. He said that although he accepted that the new timetable could be adopted exceptionally for the next Policy Address, he considered that the Administration should have detailed discussion with LegCo before deciding whether the new timetable should be adopted for subsequent years.

45. Ag CS responded that the Administration was now consulting Members on the revised arrangements for the next Policy Address, and as was the current practice, a review should be conducted following the delivery of the Policy Address next January.

46. Dr YEUNG Sum disagreed that the Administration had consulted Members on the new timetable. He pointed out that the Chairman and the Deputy Chairman of the House Committee were only notified of, and not "consulted" on, the new timetable during their regular meeting with CS on 24 June 2002. Dr YEUNG said that Members were also given the understanding that the new arrangement would be adopted for the whole five-year term of CE. Dr YEUNG asked whether the Administration had now changed its stance.

47. The Chairman also pointed out that during the discussion with the Administration in 1999, CRoP was given the understanding that the Administration would continue to plan on the basis that Policy Addresses in subsequent years would be delivered in the month of October. The Chairman said that the Administration had now changed the arrangements without prior consultation with LegCo.

48. Ag CS explained that when CE would deliver a Policy Address was a matter for CE under the Basic Law. He said that the correspondence between D of Adm and the Chairman of CRoP in 1999 clearly reflected that Rule 13(1A) was not intended to impose any obligation on CE that he could only deliver his Policy Address at the first meeting in a session and not at any other time. Ag CS said that with the benefit of experience, a more logical timetable was now proposed for the delivery of the Policy Address. The new timetable would be

implemented for the next Policy Address and subject to the usual review. As regards Members' concern about the lack of consultation with LegCo, Ag CS pointed out that the Administration would consult LegCo on how the revised timetable would affect LegCo's work plan. He reiterated that CS had taken the earliest opportunity to consult Members on the proposed arrangement, and there would be more detailed discussion at this meeting.

49. Dr YEUNG Sum stressed that it was undesirable for the Administration to change the established practice unilaterally without consulting LegCo. He said that the Administration should take active steps to consult Members on such important changes, if it really wanted to work in partnership with LegCo.

50. Ag CS reiterated that it was the Administration's intention to adopt the new timetable for the whole five-year term of CE, but a review would first be conducted after the arrangement was tried out for the next Policy Address. He said that Members would be consulted on the detailed arrangements.

51. Secretary for Constitutional Affairs (SCA) stressed that it was the Administration's aim, and the objective of the accountability system, to strengthen partnership with LegCo. He said that the proposed timing for the next Policy Address was to allow more time for the new principal officials to gauge views on their policy proposals, and to narrow the time gap between the Policy Address and the Budget. SCA added that the new timetable would enable more effective implementation of the policy initiatives.

52. Ms Miriam LAU agreed that the new timetable could be adopted for the next Policy Address to allow time for the new principal officials to settle in at their posts, but the question of whether the new arrangement should continue in subsequent years should be subject to discussion with LegCo. She stressed that there must be a process of consultation with LegCo if the Administration wished to change an established practice. She pointed out that LegCo had detailed discussion with the Administration last year on the proposal to change the arrangements for the debate on the Policy Address.

53. Mr Albert CHAN said that the public had expectations that the next Policy Address would provide some measures to address the pressing social and economic problems. He further said that the public would be greatly disappointed if the Policy Address

was to be deferred, and the new principal officials did not take any action to tackle these problems in the meantime.

54. Ag CS responded that CE had already outlined some important policy directions, such as to develop a population policy, at the beginning of his new term in July 2002. Some new principal officials had also started meeting with Members and relevant parties to gauge their views on policy proposals. He said that some lead time was required for the principal officials to formulate their policies in support of the preparation of the Policy Address. He added that Members would definitely be consulted in the process of drawing up the Policy Address.

55. Mr LEE Cheuk-yan expressed regret that CS had not consulted LegCo on revising the timing for the delivery of the Policy Address. He said that as far as he knew, the Administration had been contemplating the change for quite some time, and he could not understand why the Administration had not consulted LegCo earlier on such an important change. He was of the view that the Administration did not show any respect to LegCo in the way it handled the matter.

56. Ag CS explained that CE had the authority to determine when to deliver his Policy Address and that CS had already taken the earliest opportunity to consult Members. In response to Mr LEE Cheuk-yan's further question, Ag CS advised that there had been internal discussion within Government on the new arrangements.

57. Mr SZETO Wah said that Article 75 of the Basic Law provided that "the Rules of Procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene the Basic Law". He further said that it was for LegCo to interpret its rules, and the Administration could not direct LegCo to follow what the Administration considered to be the correct interpretation of Rule 13(1A) of the Rules of Procedure. He asked the Administration to confirm whether it was still of the view that Rule 13(1A) was not consistent with the Basic Law. He added that Rule 13(1A) of the Rules of Procedure was formulated in 1999 based on the understanding that CE would continue to deliver his Public Address in October each year.

58. Solicitor General responded that based on his understanding of the discussion at the meeting, Members did not seem to have disputed the interpretation of Rule 13(1A) of the

Rules of Procedure. He said that in the light of the correspondence exchanged between the Chairman of CROp and the Administration when Rule 13(1A) was drafted and formulated in 1999, the Rule did not limit CE that he could only deliver his Policy Address at the first Council meeting, and not other meetings, in a session. He further said that if Members accepted that Rule 13(1A) was formulated to reflect such intention, the Rule was not in contravention of the Basic Law.

59. Ag CS said that Article 64 of the Basic Law stipulated that the Government of the HKSAR "shall present regular policy addresses to the Council", and Rule 8 of the Rules of Procedures provided that CE could address the Council at any time "as he shall think fit". He considered that Rule 13(1A) could hardly be interpreted in such a way that it would prohibit CE from delivering his Policy Address at a time other than the first Council meeting.

60. Mr NG Leung-sing said that the content of a Policy Address was more important than the timing of its delivery. He further said that it would not be in the public interest to receive an ill-conceived Policy Address in October, if the new principal officials really needed more time to formulate their work plans for the coming year. Mr NG suggested that the Administration should designate a team to study the impact of any proposed changes which might affect the operation of LegCo, in order to improve the relationship between the Administration and LegCo and make it easier for LegCo to "adapt" to such changes.

61. Ag CS said that the new principal officials had already started to cultivate constructive relationship with Members and made their best efforts to answer Members' questions at Council meetings. He believed that there would be even better communication between the Administration and LegCo with the implementation of the accountability system for principal officials.

62. Mr LEUNG Fu-wah said that according to the record of proceedings on the debate on the resolution to amend the Rules of Procedure at the Council meeting on 28 April 1999, CS had stated that the Administration had reservations about Rule 13(1A). Mr LEUNG noted that it was the understanding at that time that Rule 13(1A) was not to impose any obligation on CE to deliver a Policy Address at the first meeting of a session and not at any other time. Mr LEUNG was of the view that if the Administration's present proposal was consistent with such

understanding and was legally in order, he did not see any need for Members to further discuss whether the Administration had been disrespectful to LegCo.

63. Mr Howard YOUNG said that he agreed that the new principal officials needed time to familiarise with their policy portfolios, and CE had given a speech in July 2002 that resembled a Policy Address. However, he did not agree that the Administration's proposed timetable was the only option to narrow the time gap between the Policy Address and the Budget. He said that the Administration should consider all relevant factors, such as the commencement of a new term after a general election, when formulating arrangements on a long-term basis. He urged the Administration to consult LegCo on such proposals, so that any operational problems could be resolved at an early stage.

64. Ag CS assured Members that the Administration would review the arrangements in the light of the experience for the delivery of the next Policy Address, and all relevant factors would be taken into consideration.

65. Mr James TO said that while Article 64 of the Basic Law stipulated that the Government of HKSAR should present regular Policy Addresses to LegCo, the Basic Law did not specify that CE could deliver his Policy Address at any time he liked. Mr TO sought clarification on whether the address to be made by CE on 8 January 2003 was a Policy Address under Rule 13(1A), or an address made under Rule 8(a) of the Rules of Procedure. He said that the process of debate would be different under these Rules.

66. Responding to Mr James TO, Solicitor General explained that Rule 13(1A) did not impose an obligation on CE to deliver his Policy Address only at the first meeting of a session and not at any other time. He said that the issue should be looked at in the light of the overall constitutional setting and the relevant provisions in the Basic Law. He advised that Article 73(4) of the Basic Law stipulated that it was one of the functions of LegCo to receive and debate the Policy Addresses of CE, but no timeframe was specified in the Basic Law in this respect. Solicitor General reiterated that Rule 13(1A) of the Rules of Procedure would not contravene the Basic Law if the understanding was that the Rule did not impose an obligation on CE to deliver his Policy Address only at the first meeting of a session and not at any other time.

67. Ag CS said that since the Basic Law had not specified when CE should deliver his Policy Address, it would not contravene the Basic Law for CE to deliver his next Policy Address in January 2003.

68. Ms Audrey EU stressed that there must be prior consultation with LegCo on changes that affected LegCo. She emphasised that it was not solely a legal question of whether CE or the Administration had the "authority" to determine the timing for the delivery of Policy Addresses, it was also a matter of partnership between the Administration and LegCo, and a matter of accountability to LegCo and to the public. Ms EU said that while she accepted that the new timetable could be adopted exceptionally for the next Policy Address, it was the established practice for CE to deliver his Policy Address at the first meeting of a session, and CE should not change the timetable as freely as he liked.

69. Ag CS responded that the Administration had tried to provide a balanced view to Members by explaining the legal basis of the revised timetable. He said that most Members accepted that there was a practical need to adopt the new timetable for the next Policy Address. He further said that although it was the Administration's intention to adopt the new timetable in subsequent years, the Administration would review the arrangement in the light of experience and views expressed by Members.

70. SCA added that CE had the authority under the Basic Law to determine when he would deliver his Policy Address, and the delivery of regular Policy Addresses was one of the four areas for which the Government of the HKSAR was accountable to the LegCo under the Basic Law.

71. The Legal Adviser pointed out that the relevant provisions in the Basic Law cited by the Administration only set out the constitutional responsibilities of the Executive Authorities and the Legislature. These provisions did not refer to such responsibilities as the "authority" of CE or the Government of the HKSAR, and they should be understood as imposing constitutional obligations on the CE.

72. Ms Cyd HO was of the view that the point at issue was that the Administration had not consulted LegCo before formulating the new timetable for the delivery of the Policy

Address and the Budget. She doubted whether the Administration had fully assessed the implications of the revised timetable on LegCo and on the community. Ms HO asked whether the Directors of Bureau would be required to cap their expenditure for the coming year at the annual growth rate of 1.75%. She was concerned that the Directors of Bureau would no longer have a role to play in next year's resource allocation exercise as there would not be any new money. She considered that the Administration had the responsibility to explain to LegCo and the public if there would be changes to the preparation of the Budget.

73. Ag CS responded that he could not answer on behalf of the Financial Secretary whether substantive changes would be made to the preparation of the Budget. However, he assured Members that the Directors of Bureau would be consulted in the process. He further said that there were merits in combining the consultations on the revenue and expenditure proposals for the Budget.

74. Mr James TIEN said that the Administration had given Members the impression that it had adopted an "executive-led" approach and did not consider it necessary to discuss with LegCo prior to making changes to the established practice. He further said that had the Administration consulted LegCo on the new timetable for the delivery of the Policy Address, Members could have given their views earlier for better implementation of the proposal. Mr James TIEN added that he did not see any reason for CE and his team to take six months to prepare the Policy Address as CE was already in his second term. He asked what benefits the revised timetable for the delivery of the Policy Address would bring to the community.

75. Mr James TIEN added that the deferment of the Policy Address had upset the work schedules of LegCo during the three months from October to December, as LegCo normally planned its work after receiving the Policy Address. Mr TIEN asked whether the Administration had considered other options to narrow the time gap between the Policy Address and the Budget, such as advancing the delivery of the Budget and changing the beginning of a financial year to January each year.

76. Ag CS responded that the Administration recognised that the revised timetable would have implications on the operation of LegCo and it was necessary to consult Members. While the next Policy Address would be deferred to January 2003, he

believed that LegCo would be occupied with its normal business, such as scrutiny of bills and monitoring the work of Government during the period from October to December. As regards the suggestion of changing the definition of a financial year, Ag CS said that it would involve amendments to the relevant legislation and the proposal would require careful consideration.

77. Mr CHAN Kam-lam agreed that the delivery of the next Policy Address could be deferred to 8 January 2003. He stressed, however, that the Administration should consult LegCo as soon as possible on the arrangements for subsequent years. He also agreed that there was a need to narrow the time gap between the Policy Address and the Budget, and requested the Administration to consider other options such as maintaining the practice of delivering the Policy Address in October of the year, but advancing the presentation of the Budget to January the following year.

78. Ms Emily LAU criticised the Administration for not consulting LegCo on changes relating to the delivery of the Policy Address and consultations on the Budget. She said that the Administration's approach was totally unacceptable. Ms LAU further said that she had requested the LegCo Secretariat to research into the practice of overseas countries to assist Members in their consideration of the arrangements for subsequent years.

79. Dr YEUNG Sum said that Members belonging to the Democratic Party were opposed to the delivery of the Policy Address in January, as it was the established practice for CE to deliver his Policy Address in October, and there had not been any prior consultation with LegCo on the proposed change. Dr YEUNG further said that he was not convinced that the principal officials needed such a long time to prepare for the Policy Address, as they were assisted by their Permanent Secretaries who were very experienced and familiar with the respective policy areas. Moreover, experts could be engaged to carry out policy research and studies where necessary. He therefore did not consider it necessary for the delivery of the Policy Address to be deferred. Dr YEUNG added that he, nevertheless, appreciated that Ag CS had proposed at the meeting that the new arrangement would only be tried out for the next Policy Address, and a review would be carried out afterwards. He urged the Administration to discuss with CROp as soon as possible with a view to reverting to the practice of delivering the Policy Address in October.

80. Mr Andrew WONG pointed out that it was the long-standing practice of LegCo to receive the Policy Address in October, and the Administration should not seek to change the practice and the system of LegCo unilaterally without discussion with LegCo. Mr SZETO Wah concurred.

81. Mr LEE Cheuk-yan expressed concern whether there would be new money for new services next year. He requested the Administration to provide a paper to explain the resource allocation mechanism for the 2003-04 Budget and the relationship between the Policy Address and the Budget. He said that it would be difficult for Members and the parties concerned to make suggestions on next year's Budget without any information on how the Budget would be worked out.

82. Mr LEE Cheuk-yan further said that he did not believe that the new principal officials would need six months to formulate their policy proposals and to provide input to the Policy Address. He pointed out that the new principal officials had already been talking to the media about their new policy initiatives. He added that the Policy Address would be no more than a formal announcement of those policy initiatives for which resources had been allocated.

83. In response to Members' concern, Ag CS said that he had clarified the Administration's position at the meeting, and the majority of Members had expressed agreement to adopting the revised timetable for the next Policy Address. He undertook that the Administration would review the arrangements as soon as possible and consult Members on whether the revised timetable would continue in subsequent years. Ag CS said that D of Adm was ready to further discuss with Members the detailed arrangements if necessary.

84. As regards the consultations on the Budget, Ag CS said that the purpose was to gauge views from Members, the relevant parties and stakeholders on the Budget proposals. The Administration would then work out the priorities for the various services and initiatives. Should there be insufficient money for the implementation of services, the Administration would consider redeployment of resources, for example, from the less cost-effective services to the more pressing and worthwhile services.

85. In concluding the discussion, the Chairman said that Members had expressed strong dissatisfaction that the

Administration had not consulted LegCo on the new timetable for the delivery of the Policy Address and the Budget. The Chairman stressed the importance of mutual respect and partnership between the Administration and LegCo. She pointed out that LegCo had always consulted the Administration when proposing amendments to the Rules of Procedures, and she urged that the Administration should also discuss with Members important proposals or changes which affected LegCo.

86. On the timing for the delivery of the Policy Address, the Chairman said that some Members agreed that the new principal officials needed time to familiarise with their policy areas and provide input to the next Policy Address. The Chairman pointed out that Members had reservations that the revised timetable should be implemented on a long-term basis, as it involved substantial changes to the operation of LegCo. She said that the Administration should discuss with CRoP as soon as possible the revised timetable and the detailed arrangements for the next Policy Address, and also the arrangements for subsequent years. She added that the discussion should include consultation on the Budget and how the Budget would tie in with the Policy Address. The Chairman suggested that CRoP should consult all Members on the proposals.

87. Ag CS apologised for not having consulted Members earlier on the revised timetable for the delivery of the Policy Address. He agreed that the Administration should discuss with CRoP as early as possible the detailed arrangements for the debate on the next Policy Address under the new timeframe. He also undertook that the Administration would conduct a review based on the experience in 2003, and consult Members as soon as possible on the arrangements for subsequent years.

88. The Chairman proposed that subject to CE publishing in the Gazette under section 9(2) of the Legislative Council Ordinance that the 2002-2003 ordinary session of the LegCo was to begin in October this year, a recommendation should be made to the President that the first Council meeting in the next session should be held in the second week of October. Members agreed.

X X X X X X X X

立法會
Legislative Council

LC Paper No. CROP 27/01-02

Ref: CB(3)/CROP/3

**Paper for the House Committee meeting
on 5 July 2002**

**Rule 13(1A) of the Rules of Procedure
The Chief Executive's Policy Address**

Purpose

To assist Members in their consideration of the letter dated 25 June 2002 from the Chief Secretary for Administration to the Chairman of the House Committee on Timing for the Delivery of Policy Address, this paper sets out the background to Rule 13(1A) of the Rules of Procedure, which was made by a Resolution passed by the Legislative Council on 28 April 1999.

2. Rule 13(1A) provides:

"(1A) The Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session."

Policy Addresses delivered to the Council since the first term of the Legislative Council of the Hong Kong Special Administrative Region.

3. The first meeting of the first session of the **first term** of the Legislative Council took place on 2 July 1998 when the Council passed a Resolution to make the Rules of Procedure of the Council. The then Rule 13, which concerned the Chief Executive's Policy Address, did not specify when the Policy Address was to be delivered and Rule 13(1) provided:

"(1) At a meeting not less than 14 days after the Chief Executive has presented a Policy Address to the Council, a motion may be moved without notice for an address of thanks to the Chief Executive for his address."

4. The Chief Executive delivered his Policy Address at the Council meeting held on 7 October 1998, i.e. about three months after the beginning of that session.

5. The first meeting of the second session of the first term of the Council took place on 6 October 1999 when the Chief Executive delivered his Policy Address at that meeting. The current Rule 13(1A) had come in force earlier, since the passage of the Resolution on 28 April 1999.

6. The first meeting of the first session of the **second term** of the Council took place on 4 October 2000 when the Members of the Council took the Legislative Council Oath and elected the President. The Chief Executive delivered his Policy Address at the Council's second meeting on 11 October 2000.

7. In the current session, the Chief Executive delivered his Policy Address at the first meeting of the Council on 10 October 2001.

The process in making Rule 13(1A)

8. Shortly after the commencement of the first term of the Legislative Council, the Committee on Rules of Procedure (CROP) started its work on examining whether the Rules of Procedure required fine-tuning either to reflect existing practices or to make provisions which would give effect to provisions in the Basic Law relating to the Council. The subject of timing for commencement of Legislative Council sessions was discussed. Members of CROP were of the general view that where possible, each session should commence with the delivery of the Policy Address, preferably in October.

9. In reply to the subsequent enquiry by CROP on whether the Policy Addresses for 1999/2000 and subsequent years would continue to be delivered in October, the Director of Administration stated, in her letter to the Secretariat dated 19 August 1998, that:

"... we would also like to point out that the timing of Policy Addresses, as you have acknowledged, is affected by the budget cycle. At present, the preparatory process for the next Budget commences almost immediately after the passage of the current one. Normally in May/June, the Financial Secretary will consult Legislative Council Members on their expenditure priorities for the next Budget. Taking account of Members' views and policy development, bureaux will formulate new policy initiatives and seek funding in the annual resource allocation exercise running from July to August. Initiatives with funding allocated will then be included in the Policy Address in October. In October/November, the Financial Secretary will start another round of consultation with Members on the revenue aspects of the next Budget. The expenditure proposals and revenue proposals will then be reflected in the draft Estimates of Expenditure and Revenue, the compilation

of which will not be completed until January. The whole budgetary process is, as can be seen, subject to an extremely tight timetable and it would be extremely difficult to accommodate Policy Addresses to be delivered in July. **Given the above constraint, the Administration will continue to plan on the basis that Policy Addresses in subsequent years will be delivered in the month of October.**"

10. Following consultation with all Members of the Council in October 1998, CROP reported to the House Committee on 13 November 1998 that "most Members are in favour of a new session commencing in October to tie in with the delivery of the Policy Address". The House Committee noted that CROP would advise the Administration of the outcome of the consultation exercise so as to facilitate the Administration in determining the timing for the commencement of session, and that CROP would examine what amendments needed to be made to the Rules of Procedure in this regard.

11. On 19 January 1999, CROP decided that a new subrule, i.e. Rule 13(1A), should be made to make more explicit Members' expectation of the Chief Executive's tying in the first meeting of a session with the delivery of the Policy Address. The proposed amendment, together with various other proposals to the Rules, were reported to the House Committee on 16 April 1999 and were endorsed.

12. On 26 April 1999, two days before the Chairman, CROP was to move the Resolution to amend the Rules, the Director of Administration wrote to the Chairman, as follows:

"We note that the motion proposes to add a new Rule 13(1A) under the section of "The Chief Executive's Policy Address" to stipulate that "the Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session." It purports to impose an obligation on the Chief Executive to do something 'if he so wishes'. That would seem to create a discretion (as in the case of the Chinese text), rather than an obligation, and it is unnecessary to amend the Rules in order to give the Chief Executive such a discretion. Indeed, the best approach is to leave sufficient flexibility rather than to suggest that the Chief Executive could only deliver a policy address at the first meeting of a session, and not at any other time. The proposed new rule seems to have no legal effect and is unnecessary."

13. Subsequent to the meeting of CROP the following day, the Chairman, CROP replied to the Director and stated:

"In our prior consultation, you have informed the Committee on 19 August 1998 that" the Administration will continue to plan on the basis that Policy Addresses in subsequent years will be delivered in the month of October". In order to reflect the Legislative Council's function of receiving and debating the policy address of the Chief Executive when he does so at the first meeting of a session and to assist members in anticipating the business of the first meeting of a session, the Committee considers it appropriate to add the proposed new Rule 13(1A) to provide for the delivery of the Policy Address by the Chief Executive at the first meeting of a session if he so wishes. It is not suggested in the proposed provision that the Chief Executive could only deliver a Policy Address at the first meeting of a session, and not at any other time. Neither was it intended to impose any obligation on the Chief Executive by virtue of the proposed new subrule. The Committee has acknowledged that whether the Chief Executive will deliver a Policy Address is a matter for him under the Basic Law. In fact, the Committee notes that a similar provision was provided in the Standing Orders of the former Legislative Council."

14. In the debate on the Resolution on 28 April 1999, both the Chairman, CROP and the Chief Secretary for Administration reiterated the respective positions of Members and the Administration. Relevant extracts of their speeches are in the attached **Appendix**.

Legislative Council Secretariat
3 July 2002

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MRS SELINA CHOW (in Cantonese): Madam President, I move the resolution to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (SAR) under my name. The contents of the resolution have been set out in the Appendix to the Agenda.

Having given notice for this resolution on 13 April 1999, I received a letter from the Director of Administration on 26 April 1999 in which views on three proposed amendments in the resolution were given. The Committee on Rules of Procedure considered the views of the Administration carefully in the meeting held yesterday. After the meeting, I wrote to the Director of Administration. The Secretariat has sent the letter from the Director of Administration and my reply by fax to Honourable Members for their reference.

I would like to explain the Committee's views on this issue.

In the consultation exercise held by the Committee earlier, the Director of Administration informed the Committee on 19 August 1998 that "the Administration will continue to plan on the basis that policy addresses in subsequent years will be delivered in the month of October." That is to say, the future policy addresses will be delivered in October as planned by the Administration. The Committee thought that if the Chief Executive is to deliver his policy address at the first meeting of a Session, then in order to reflect the function of the Legislative Council in hearing and debating on the policy address of the Chief Executive, and to help Members anticipate the amount of work to be handled in the first meeting of a Session, it would be proper to add the new subrule (1A) to Rule 13 of the Rules of Procedure, to specify that the Chief Executive shall deliver a policy address to the Council, if he so wishes, at the first meeting of a Session. But this provision does not bind the Chief Executive that he can only deliver his policy address at the first meeting of a Session and not at any other time. The provision also does not intend to require the Chief Executive to fulfil any obligation. The Committee understands that under the Basic Law, it is up to the Chief Executive himself to decide whether or not he would deliver a policy address. Indeed, the Committee is also aware that a similar provision was made in the Standing Orders of the former Legislative Council.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, with this resolution, the Honourable Mrs Selina CHOW seeks to amend certain rules of the Rules of Procedure. We consider some of the proposals to be in contravention of the Basic Law.

The Basic Law has established a new constitutional framework for the Special Administrative Region (SAR). We and the Legislative Council hold different views regarding the application of the provisions of the Basic Law to the operation of the Legislative Council. Therefore, I wish to take this opportunity to repeat our stand to Members.

We fully understand that in accordance with Article 75 of the Basic Law, the Rules of Procedure of the Legislative Council shall be made by the Council on its own. However, we must ensure that the Rules of Procedure are consistent with the Basic Law to guarantee the legality of the legislative procedures.

The resolution also proposes to add (1A) to Rule 13 stating that the Chief Executive shall deliver a policy address to the Council, if he so wishes, at the first meeting of a Session. This rule appears to be asking the Chief Executive to fulfil an obligation, while pointing out that he can do as he wishes. As Mrs Selina CHOW has explained to us, the proposed rule does not rigidly lay down that the Chief Executive can only deliver a policy address at the first meeting of a Session and not at any other time. Nor is the proposed new rule intended to impose any obligation on the Chief Executive. Notwithstanding this, we do not think it necessary for Members to amend the Rules of Procedure to endow the Chief Executive with this discretion. It would be best to retain the flexible mechanism in the existing Rules of Procedure. We consider that the proposed addition of Rule 13(1A) in the resolution is neither necessary, nor does it have any legal effect.

Madam President, for the above reasons, I have reservations about Rule 13(1A), in the resolution proposed by Mrs Selina CHOW.

Thank you, Madam President.

**Extract from the Progress Report of Committee on Rules of Procedure
(for the period from July 1998 to April 1999)**

Committee on Rules of Procedure

III. Improvement of Procedural Arrangements

3.1 To facilitate the smooth conduct of business in the Council, the Committee has conducted a detailed study of some the current arrangements which require improvement, including the commencement and ending of a legislative session, the manner to convene the first meeting of a committee at the commencement of a new term, the registration and declaration of Members' interests, the term of office of a select committee and the manner of speaking at debates.

Timing for the commencement and ending of legislative sessions

3.2 Although a decision on the timing for the commencement of a session in a legislative term rests with the Chief Executive in accordance with section 9(2) of the Legislative Council Ordinance (Cap. 542), the subject matter affects all Members of the Council and will impact on the timing for the holding of general elections. The Committee notes that prior to July 1997, the arrangements for the commencement of legislative terms and sessions were set out in the Royal Instructions and the Standing Orders of the former Legislative Council. The practice in the former Legislative Council was for a new session to commence in October each year with the Policy Address of the Governor delivered at the first sitting of that session, and to end in July, followed by a summer recess not exceeding three months in between. While the President determined the days and hours of sittings in accordance with the Standing Orders, a session was to end on such date as the Governor might appoint by notice published in the Gazette, or on a dissolution of the Council, whichever was the earlier. The dissolution period between two legislative terms was to enable elections of Members of the Legislative Council to take place. In 1991 and 1995, the general elections took place in September.

3.3 In the case of the Provisional Legislative Council, its term of office as decided by the Preparatory Committee for the Hong Kong Special Administrative Region was to commence after the appointment of the first Chief Executive and to cease operation upon the formation of the first Legislative Council, but in any event not beyond 30 June 1998. Owing to the short duration of the term of office between January 1997 and June 1998, there was only one legislative session in its entire term of office.

3.4 As for the Legislative Council of the Hong Kong Special Administrative Region, its first term shall be two years, and then four years each thereafter according to Article 69 of the Basic Law. Section 4(2) and (3) of the Legislative Council Ordinance (Cap. 542) provides that the first term of office of the Council is to begin on 1 July 1998 and that subsequent terms are to begin on such dates as specified by the Chief Executive. The Committee notes that the word “year” in Article 69 should mean “full calendar year”. According to the Legal Adviser of the Legislative Council, this meaning is consistent with the obvious meaning of “year” as it appears in other Articles (namely Articles 5, 24, 44, 46, 61 and 71) and Annex I of the Basic Law. The Basic Law is silent on whether there could be gaps between consecutive terms of the Council.

Commencement of a legislative session

3.5 The Committee considers the arrangement for the first session of the first term of the Legislative Council not entirely satisfactory. The session commenced on 2 July 1998 with no Council meetings scheduled for the period between 29 July and 9 September 1998. Regular meetings of the Council are scheduled up to mid July 1999, with the Chief Executive’s 1998 Policy Address delivered in October. Apart from the disruption of the flow of Council business by a break of six weeks after the Council has met for only one month, the delivery of the Policy Address in the middle of a session also creates difficulties in the planning of legislative work.

3.6 Members of the Committee are of the view that where possible, each session should commence with the delivery of the Policy Address, preferably in October allowing a summer break of not exceeding three months in between two sessions. In this respect, members are aware that there may be practical difficulties for commencement of the first session of the next term in October 2000 because the present term of office ends on 30 June 2000. Consideration should also be given to the timing of the general election in 2000 as it will affect the commencement of the new term and also its first session. Nevertheless, the Committee considers that different scenarios should be examined, including the possibility of advancing the Policy Address to July if it is not practicable to commence a session in October.

3.7 The Committee has, therefore, sought the views of other Members on, among other things, whether the first meeting of a session should tie in with the delivery of the Policy Address. This would have impact on the timing for the commencement and ending of the sessions in the current term, as well as the second and subsequent terms of the Council. The Committee has also consulted the Administration in this respect and enquired the possibility of advancing Policy Addresses to July if all sessions were to commence in July.

3.8 According to the Administration's response, if a legislative session commences in July, the six-week summer break in August/September under the present arrangement will be much shorter than those of previous legislative sessions. It would be "extremely difficult" for Policy Addresses to be delivered in July as the delivery of the Policy Address is affected by the budget cycle. The Financial Secretary consults Members on expenditure priorities in May/June, and bureaux will formulate policy initiatives and seek funding in the annual resource allocation exercise from July to August. Initiatives with funding allocated will be included in the Policy Address in October. In October/November, the Financial Secretary starts another round of consultation with Members on the revenue aspects of the next Budget, and the expenditure and revenue proposals will be reflected in the draft Estimates of Expenditure and Revenue compiled in January. The Administration has concluded that it will continue to plan for Policy Addresses to be delivered in October in subsequent years.

Gaps in between terms

3.9 Should a legislative session commence in October, it would be necessary to address the gaps in between terms if the term of office of a Legislative Council does not immediately follow that of its predecessor. The Committee notes that in the Basic Law, dissolution of the Council is an exception rather than the rule as the Basic Law only provides for the Council to be dissolved under Article 50. Theoretically speaking, there should be no gap in between terms. To enable a general election to take place, section 6 of the Legislative Council Ordinance (Cap. 542) has provided for a prorogation during which business of the Council will come to a complete stop although all serving Members of the Council are still in office.

3.10 Some members of the Committee have expressed concern that if a general election were to be held during the prorogation of the Council, serving Members may have an unfair advantage over other candidates. However, if the Council were to be dissolved, rather than prorogued, for the purpose of holding the general election, the term of office of a Legislative Council would either be shorter than four years, which is contrary to the requirement under the Basic Law, or that different terms of the Council would commence at different months of a year. If a new term and session were to commence at different months of a year, it will be difficult for a session to commence with the Policy Address. This, however, is not the Committee's main concern. The Committee notes that the Basic Law does not provide for the convening of emergency sessions after the end of a term or during the dissolution of the Council. Although section 11 has been added to the Legislative Council Ordinance (Cap. 542), as a result of a Member's initiative, to provide, inter alia, for the President to convene emergency sessions during the period after the end of the term of office of the Council and for the persons holding office as Members of the Legislative Council immediately before the dissolution to be deemed as Members of the Legislative Council for the purpose of the emergency session, the status of these "deemed Members" and the validity of any laws passed by them might still be subject to challenge.

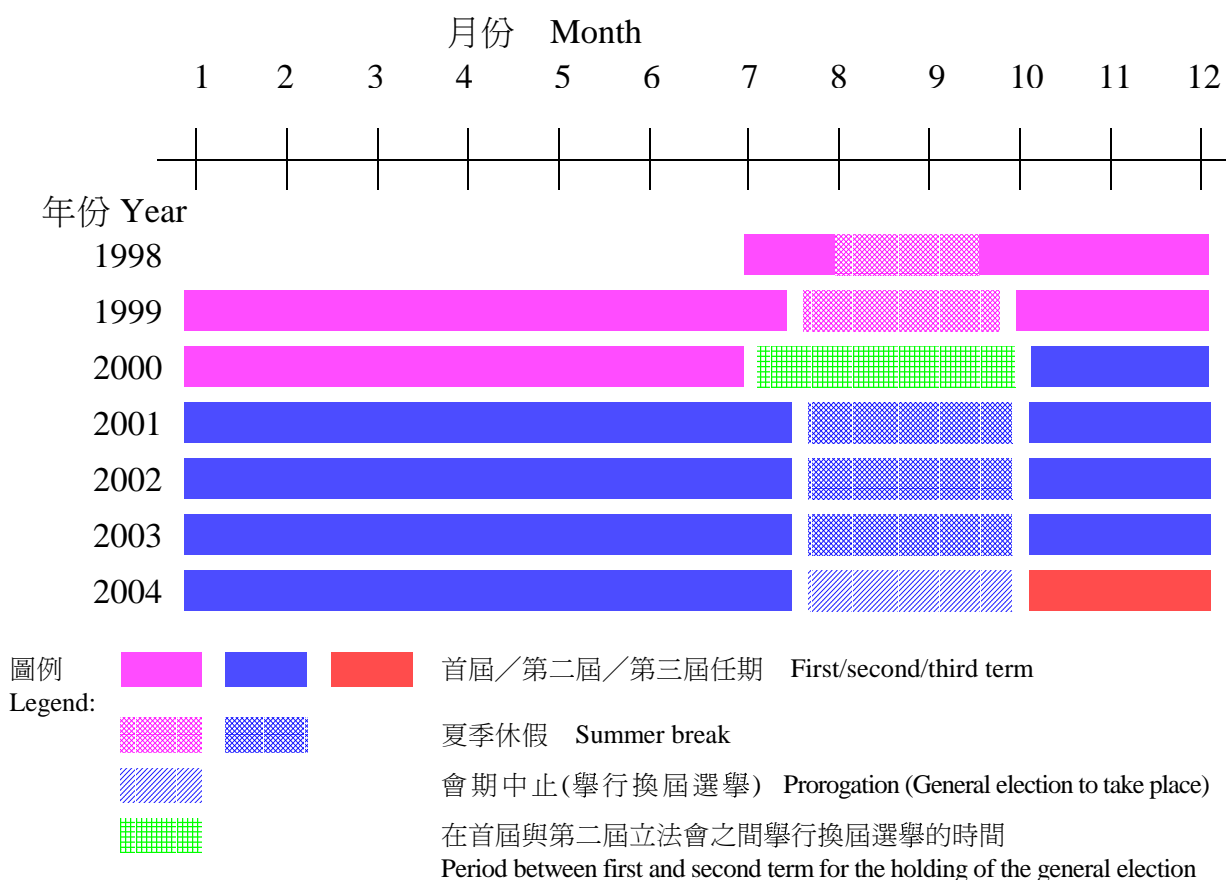
3.11 The Committee has examined the subject at great length. It has come to the view that the deeming of the persons holding office as Members of the Legislative Council under section 11(2) of Cap. 542 is solely for the purpose of convening an emergency session after the Council is dissolved but before the general election takes place. It is a provision necessary for ensuring that a law making mechanism is available during a period when there are no incumbent Members, e.g. when the Legislative Council has been dissolved by the Chief Executive under Article 50 of the Basic Law, but before the next general election is held. The provision is not intended to extend the term of office of these Members. The Committee is of the view that it would be unlikely that the provision would be considered as contravening the Basic Law as regards the two-year or four-year term of office of Members. If an emergency session were to be convened after the general election, the Chief Executive may specify, in accordance with section 4 of Cap. 542, an earlier date for the commencement of the new term and of its first session to enable a Council meeting to be held.

3.12 In response to the Committee's enquiry on the above concern, the Administration has subsequently confirmed, in the context of examination of the Legislative Council (Amendment) Bill 1999 introduced to the Council on 3 February 1999, that section 11 of Cap. 542 is not inconsistent with the Basic Law.

Arrangements for the second and subsequent terms

3.13 The Committee has also invited Members to give special thoughts to the arrangements for the second and subsequent terms. In this respect, a number of options were set out in a consultation paper circulated to Members in October 1998. A total of 58 Members responded. The results of the consultation exercise indicate that most Members are in favour of a new session commencing in October to tie in with the delivery of the Policy Address, and the session ending in July of the following year, allowing a break of not more than three months between sessions. Under this arrangement, the first term of the Legislative Council will end on 30 June 2000, after which a general election will take place. The second term will commence in October 2000 and end in September 2004, and the Council will be prorogued in July/August 2004 to enable the general election to take place.

3.14 An illustration of the arrangement is given below:



Follow-up actions

3.15 As a follow-up to the consultation exercise, the Committee has informed the Administration of Members' preferences to facilitate its determination of the timing for the commencement of legislative sessions and for the holding of general elections. In reply, the Administration has advised that it would comply with Members' preferences for the 1998-99 session to end in July 1999, and the 1999-2000 session to commence in October 1999. The provision for the Chief Executive to determine the first meeting of each term has been incorporated in the Legislative Council (Amendment) Bill 1999.

3.16 To facilitate arrangements for the first meeting of a session to tie-in with the delivery of the Policy Address by the Chief Executive, the Committee has considered it appropriate to introduce an amendment to Rule 13 (The Chief Executive's Policy Address) to provide for the delivery of the Policy Address by the Chief Executive at the first meeting of a session if he so wishes.

X X X X X X X X

Appendix F

CSO/ADM SCR 4/1136/98(01)

Tel: 2810 3838
Fax: 2804 6870

24 July 2002

The Honorable Selina CHOW LIANG Shuk-ye, GBS, JP
Chairman
House Committee
Legislative Council
8 Jackson Road
Hong Kong

New Timetable for the Delivery of the Policy Address

At the Special House Committee meeting held on 5 July, the Administration undertook to follow up with Members on the revised timetable and arrangements for Members' debate on the Policy Address, now that the next Policy Address is scheduled for delivery on 8 January 2003. The Administration also agreed to brief Members on the revised consultation timetable for the next Policy Address and Budget.

I attach, in this regard, a paper on the subject for Members' perusal and shall be happy to discuss with Members, if necessary.

(Andrew H Y Wong)
Director of Administration

cc The Honourable Jasper Tsang, GBS, JP
Chairman, Committee on Rules of Procedure

New Timetable for the Delivery of the Policy Address

Introduction

Given the new delivery date of the next Policy Address on 8 January 2003, this paper proposes for Members' consideration the revised timetable and arrangements for Members' debate on the next Policy Address.

2. This paper also sets out for Members' information the revised consultation timetable for the next Policy Address and Budget.

Background

3. In a letter of 25 June 2002 to the Chairman of the House Committee, the Chief Secretary for Administration explained to Members the Administration's intention to change the date of delivery of the next Policy Address to 8 January 2003, and the rationale behind the new timetable. The Chief Secretary of Administration also informed Members that the Director for Administration would stand ready to discuss with Members the revised timetable and arrangements for Members' debate on the Policy Address under the new timeframe.

4. At the special House Committee meeting held on 5 July 2002 to discuss the subject, it was agreed that the Administration should follow up with the Committee on Rules of Procedure (the Rules Committee) on the revised timetable and detailed arrangements for Members' debate on the Policy Address. The Administration would also brief Members on the revised consultation timetable in relation to the Policy Address and the Budget.

Revised Arrangements for Members' Debate on the Next Policy Address

5. On 18 May 2002, the Clerk to the Rules Committee advised

the Administration of the Committee's proposal to inter-alia continue with the "3+1" debate format for the next Policy Address, i.e. a three-day debate on specific policy areas and a one-day general debate. With the new delivery date of the Policy Address on 8 January 2003, the Administration would like to propose the following timetable for Members' debate on the next Policy Address -

- (a) the three-day debate on specific policy areas to be held on 15 – 17 January 2003, i.e. the Wednesday to Friday following the Policy Address delivery;
- (b) the one-day general debate to be held on 22 January 2003, i.e. the Wednesday following the specific policy area debates; and
- (c) the Motion of Thanks to be put to a vote after the conclusion of the general debate on 22 January 2003.

6. The proposed timetable for the debate is set out **at Annex** for Members' easy reference.

7. As to the Committee's proposed arrangements for Members' debate on the Policy Address, including the proposed grouping of policy areas, speaking time limits for Members and public officers, Panel briefings etc, we have set out our views in our letters to the Clerk to the Rules Committee on 4 June and 4 July 2002 respectively. We stand ready to discuss with Members on these detailed arrangements at Members' convenience.

The New Policy Address/Budget Consultation Timetable

8. Given the new timing for the delivery of the next Policy Address, the consultation timetable of the Policy Address and Budget is revised as follows –

<u>Timing</u>	<u>Consultation/Preparation Process</u>
July – August 2002	The Directors of Bureaux to review their on-going programmes under their respective policy portfolios.
September/ October 2002	The Financial Secretary to issue information pack to Members as background for consultations on the 2003-04 Budget.
September/ October 2002	The Directors of Bureaux to consult their relevant constituencies and stakeholders, including LegCo, on their programme priorities.
November 2002	The Chief Executive to consult Members on priorities for the next Policy Address.
November/ December 2002	The Financial Secretary to consult Members on their proposals for both expenditure and revenue for the 2003-04 Budget.
December 2002	All final submissions for the 2003-4 Estimates to reach the Treasury Branch. .
8 January 2003	The Chief Executive will deliver the next Policy Address.
5 March 2003	The Financial Secretary will announce the 2003-04 Budget.

Administration Wing
 Chief Secretary for
 Administration's Office
 July 2002

Annex

**Debate on the Motion of Thanks
for the next Policy Address**

Year: 2003

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 Jan	2	3	4
5	6	7	8 Delivery of the Policy Address	9	10	11
12	13	14	15 Debate on specific policy areas	16 Debate on specific policy areas	17 Debate on specific policy areas	18
19	20	21	22 General debate & voting on the Motion of Thanks	23	24	25
26	27	28	29	30	31	1 Feb

 Denotes general holidays

***Commencement of Legislative Session and its
Relationship with the Timing of Policy Address and
Budget Speech in Selected Overseas Jurisdictions***

17 September 2002

Prepared by

**Diana WONG
Simon LI**

**Research and Library Services Division
Legislative Council Secretariat**

5th Floor, Citibank Tower, 3 Garden Road, Central, Hong Kong

Telephone : (852) 2869 9372

Facsimile : (852) 2509 9268

Website : <http://www.legco.gov.hk>

E-mail : library@legco.gov.hk

C O N T E N T S

	<i>Page</i>
Acknowledgements	
Executive Summary	
Part 1 - Introduction	1
Background	1
Scope of Research	1
Methodology	1
Part 2 - Definitions	2
Parliamentary Period	2
Commencement of Legislative Session	2
Policy Address	3
Budget Speech	3
Part 3 - The United Kingdom	4
Structure of the Legislature	4
Parliamentary Period	4
Commencement of Legislative Session	5
Queen's Speech	5
<i>Involvement of Parliament</i>	6
<i>Response from Parliament</i>	6
Budget	6
<i>Budget Statement</i>	6
<i>Involvement of Parliament</i>	7
<i>Response from Parliament</i>	7
<i>Budgetary Cycle</i>	8
Part 4 - The Commonwealth of Australia	9
Structure of the Legislature	9
Parliamentary Period	9
Commencement of Legislative Session	11
Governor-General's Opening Speech	11
<i>Involvement of Parliament</i>	12
<i>Response from Parliament</i>	12
Budget	13
<i>Budget Speech</i>	13
<i>Involvement of Parliament</i>	13
<i>Response from Parliament</i>	14
<i>Budgetary Cycle</i>	14

Part 5 - The United States of America	15
Structure of the Legislature	15
Parliamentary Period	15
Commencement of Legislative Session	16
State of the Union Address	16
<i>Involvement of Congress</i>	17
<i>Response from Congress</i>	17
Budget	18
<i>Budget Message</i>	18
<i>Involvement of Congress</i>	19
<i>Response from Congress</i>	19
<i>Budgetary Cycle</i>	20
Part 6 - The State of New Jersey	21
Structure of the Legislature	21
Parliamentary Period	21
Commencement of Legislative Session	22
State of the State Address	22
<i>Involvement of Legislature</i>	23
<i>Response from Legislature</i>	23
Budget	23
<i>Budget Message</i>	23
<i>Involvement of Legislature</i>	24
<i>Response from Legislature</i>	24
<i>Budgetary Cycle</i>	25
Part 7 - Analysis	26
<i>Commencement of Legislative Session</i>	26
<i>Timing of Policy Address in Relation to Commencement of Legislative Session</i>	27
<i>Timing of Budget Speech in Relation to Commencement of Legislative Session</i>	28
<i>Timing of Policy Address in Relation to Budget Speech</i>	28
References	34

The Legislative Council Secretariat welcomes the re-publication, in part or in whole, of this research report, and also its translation in other languages. Materials may be reproduced freely for non-commercial purposes, provided acknowledgement is made to the Research and Library Services Division of the Legislative Council Secretariat as the source and one copy of the reproduction is sent to the Legislative Council Library.

Acknowledgements

We sincerely acknowledge the kind assistance given to us by many people in the preparation of this research report. In particular, we would like to express our gratitude to the following people for their kind assistance in providing us with valuable information:

Mr Ian Harris, Clerk of the House of the Parliament of Australia;

Ms Cathy Madden, Director of Politics and Public Administration at the Department of the Parliamentary Library of the Parliament of Australia;

Mr Charles W. Johnson, House Parliamentarian of the Office of the Parliamentarian of US Congress;

Office of the Clerk, House of Representatives of US Congress;

Ms Alysoun McLaughlin, Federal Budget and Taxation Policy Specialist of the National Conference of State Legislatures;

Mr Brian Weberg, Director of the Legislative Management Program of the National Conference of State Legislatures;

Mr Michael Bird of the National Conference of State Legislatures;

Ms Hannah Shostack, Principal Research Analyst of the Office of Legislative Services at the New Jersey State Legislature;

Mr Michael Angulo, Esquire, Assistant Counsel of the Office of the Governor of New Jersey State;

Mr Frank Parisi, Lead Research Analyst of the Office of Legislative Services at the New Jersey State Legislature;

Ms Gina Marie Briscese, Assistant Research Analyst of the Office of Legislative Services at the New Jersey State Legislature;

Mr Pedro Carrasquillo, Assistant Fiscal Analyst of the Office of Legislative Services at the New Jersey State Legislature;

Ms Ruth Winstone of the Parliament and Constitution Centre at the United Kingdom Parliament; and

Ms Priscilla Baines of the Library of the House of Commons at the United Kingdom Parliament.

Executive Summary

1. The United Kingdom legislative session usually runs from October or November to the same month of the next year. Commencement of a legislative session starts with a ceremony called the State Opening of Parliament. The Queen's Speech is delivered during the ceremony. The Budget Statement is usually delivered in March, in the middle of a legislative session. The timing of both the Queen's Speech and Budget Statement has evolved in the past centuries. Overall, there is no direct link between the timing of Queen's Speech and Budget Statement.
2. In the Commonwealth of Australia, the Governor General's Opening Speech is delivered during the opening day of a new Parliament, a tradition inherited from the United Kingdom parliamentary practice. The Budget Speech is usually delivered in May. However, the Budget Speech can be delayed to August if a general election prevents it from being delivered in May. There is no direct link between the timing of Governor General's Opening Speech and the Budget Speech.
3. In the United States of America, the commencement of Congress is fixed at 3 January every other year by the United States Constitution. The State of the Union Address is delivered in January while the Budget Message is transmitted in writing to Congress no later than the first Monday in February of each year. There is no statutory or constitutionally prescribed relationship among the convening of Congress, the delivery of the State of the Union Address and the transmission of the federal budget by the President to Congress.
4. In the State of New Jersey, the New Jersey State Legislature commences on the second Tuesday in January every other year as stipulated by the New Jersey State Constitution. The State of the State Address is delivered on the first day of every session while the Budget Speech is delivered on or before the third Tuesday following the first meeting of the Legislature, except in the year when the Governor is inaugurated. There is no legislative history or constitutional convention that stipulates the closeness in timing of the two speeches.
5. The patterns of commencement of legislative session, policy address and budget speech vary among the jurisdictions studied. Factors affecting their timing include constitutional arrangements, conventional practices and political preferences.
6. Among the jurisdictions under study, the policy address is delivered to the legislature on the commencement day of a legislative session, except in the US where the policy address is delivered within the first month of a legislative session. While the budget messages of both the US and the State of New Jersey are delivered to the legislature at the beginning of a legislative session, the budget speeches of the UK and Australia are delivered to the legislature in the middle of a legislative session. In all the jurisdictions studied, no relationship is found between the timing of policy address and budget speech.

Commencement of Legislative Session and its Relationship with the Timing of Policy Address and Budget Speech in Selected Overseas Jurisdictions

Part 1 - Introduction

1. Background

1.1 The House Committee at its meeting on 5 July 2002 requested the Legislative Council (LegCo) Secretariat to study the practice in overseas jurisdictions regarding the commencement of legislative session and its relationship with the preparation and delivery of policy address (statement) and budget speech (statement) by the relevant authorities. The report of the study will be submitted to the Committee on Rules of Procedure for consideration.

1.2 The United Kingdom (UK), the Commonwealth of Australia (Australia) and the United States of America (US) are selected for the study. The UK and Australia are examples of the parliamentary system. The US is a typical example of the presidential system and both the federal and state legislatures will be examined in our research. The State of New Jersey is chosen because its population of 8 million is comparable to that of Hong Kong, and both New Jersey and Hong Kong are not national legislatures.

2. Scope of the Research

2.1 The scope of the research covers the following aspects of selected overseas jurisdictions:

- (a) the structure of the legislature;
- (b) the preparation and presentation of policy address and budget speech;
- (c) the response from the legislature to policy address and budget speech; and
- (d) the timing of policy address and budget speech in relation to the commencement of legislative session.

3. Methodology

3.1 This research adopts a desk research method which involves internet research, literature review and analysis, and correspondence with related authorities. Information for this research is obtained from government reports, the internet and relevant reference sources. Enquiries have also been sent to the relevant authorities in the UK, Australia, the US and the State of New Jersey and most of them have responded to our questions. Telephone interviews with officials of the relevant authorities in the selected overseas jurisdictions were also conducted.

Part 2 - Definitions

4. Parliamentary Period

4.1 A parliamentary period is the time-span between general elections during which the parliament has the legal right to meet and to transact its business. A parliamentary period is subdivided into legislative sessions. A legislative session is further divided into sitting and non-sitting (recess) periods. In each sitting period, there are sitting and non-sitting days.¹ The overseas jurisdictions under study attach different names to the parliamentary period:

- (a) the UK – Parliament;
- (b) Australia – Parliament;
- (c) the US – Congress; and
- (d) the State of New Jersey – Legislature.

4.2 This research focuses on the following events during a legislative session, namely the commencement of legislative session, policy address and budget speech.

5. Commencement of Legislative Session

5.1 The commencement of legislative session involves the determination of the date, venue, participants, and proceedings. While the date of commencement may vary, the venue, participants and proceedings are conventionally fixed.

¹ The International Centre for Parliamentary Documentation of the Inter-Parliamentary Union, *Parliaments of the World: A Comparative Reference Compendium*, Second Edition, Volume I, England: Gower Publishing Company Limited, 1986, p.269; Limon, Donald and McKay, W.R. eds., *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, Twenty-second Edition, London: Butterworths, 1997, p.231; Marleau, Robert and Camille Montpetit eds., *House of Commons Procedure and Practice*, Canada: House of Common, 2000, p.308; and "Sine die adjournment" in C-SPAN Congressional Glossary available at <http://www.c-span.org/guide/congress/glossary/sinedie.htm>.

6. Policy Address

6.1 A policy address is a speech that sets out the government's proposed policy programmes in a legislative session.² The overseas jurisdictions under study attach different names to the policy address:

- (a) the UK – Queen's Speech;
- (b) Australia – Governor-General's Opening Speech;
- (c) the US – State of the Union Address; and
- (d) the State of New Jersey – State of the State Address.

7. Budget Speech

7.1 A budget speech is an address, which announces the estimated total financial needs of the government and the total resources required to meet them.³ The overseas jurisdictions under study attach different names to the budget speech:

- (a) the UK – Budget Statement;
- (b) Australia – Budget Speech; and
- (c) the State of New Jersey – Budget Message.

7.2 In the US, there is no budget speech and the Budget Message is delivered to the legislature in written form.

² Evans, Paul, *Handbook of House of Commons Procedure*, Second Edition, London: Vacher Dod Publishing Limited, 1999, p.221.

³ The International Centre for Parliamentary Documentation of the Inter-Parliamentary Union, *Parliaments of the World: A Comparative Reference Compendium*, Second Edition, Volume I, England: Gower Publishing Company Limited, 1986, pp.1049-1053.

Part 3 - The United Kingdom

8. Structure of the Legislature

8.1 The UK Parliament is composed of the sovereign, the House of Lords and the House of Commons. Collectively, they form the legislature of the UK. Although the sovereign enjoys prerogatives (the inherent legal power which is unique to the sovereign) of appointing Members of House of Lords, summoning, proroguing as well as dissolving the UK Parliament, he/she exercises his/her prerogatives in accordance with the advice of ministers.

8.2 As at 1 August 2002, the House of Lords has 701 Members most of whom are appointed by the sovereign for life, except bishops who stop being Members when they retire. The House of Commons has 659 Members who are elected by universal suffrage to represent geographical constituencies for a term not exceeding five years.

8.3 The Prime Minister and members of his Cabinet are Members of the House of Commons.

9. Parliamentary Period

9.1 According to the 1911 Parliament Act, a parliamentary period cannot exceed five years. Within a parliamentary period, there are legislative sessions of indeterminate length. With the exception of the legislative session immediately before and after dissolution, it usually runs from October or November of one year to October or November of the next year. Table 1 shows the calendar of a typical legislative session. Since there are five periods of recess, the average number of sitting days in each legislative session is around 163 days.⁴

⁴ "Sittings of the House HC Factsheets - Procedure Series No 4", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm and Limon, Donald and McKay, W.R. eds., *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, Twenty-second Edition, London: Butterworths, 1997, p.231.

Table 1 - Legislative Session Calendar

Month	Events
October or November to late December	Autumn sitting period (Queen's Speech in the State Opening of Parliament)
Early January to early February	Winter sitting period
Mid-February to early April	Winter sitting period (Budget Statement)
Mid-April to end of May	Spring sitting period
Early June to July	Summer sitting period
October	A short sitting period before prorogation

Source: Adapted from Evans, Paul, *Handbook of House of Commons Procedure*, Second Edition, London: Vacher Dod Publishing Limited, 1999, p.38.

10. Commencement of Legislative Session

10.1 During the late 19th century, the legislative session commenced in January or February. However, in the 1928-1929 legislative session, the UK Parliament resumed the 17th century practice of having autumn sittings and the sovereign decided to commence the legislative session in November. Since then, legislative sessions have commenced in either October or November, except during election years.⁵

11. Queen's Speech

11.1 For centuries, the commencement of legislative sessions has started with a ceremony called the State Opening of Parliament. In the State Opening of Parliament, the Queen delivers the Queen's Speech on the Throne in the House of Lords to Members of both Houses. The ceremony is broadcast live to the public.

⁵ "Sittings of the House HC Factsheets - Procedure Series No 4", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm and Limon, Donald and McKay, W.R. eds., *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, Twenty-second Edition, London: Butterworths, 1997, p.231.

11.2 As a tradition of the UK Parliament, the Queen's Speech is part of the ceremony of the commencement of a legislative session.

Involvement of Parliament

11.3 The content of the Queen's Speech is prepared by the government with the approval of the Cabinet. The Queen's Speech highlights bills and policies that the government will introduce in the current legislative session.⁶ Meanwhile, both Houses of Parliament are not formally involved in the preparation of the Queen's Speech.

Response from Parliament

11.4 There is a debate on the Queen's Speech in both Houses of Parliament and is arranged in accordance with conventional practices. To start the debate, two Members are selected by the government for moving and seconding the motion on the Loyal Address. The wording of the motion is standardized and the content is to thank the Queen for her Speech.

11.5 The ensuing debate in the House of Commons on the motion continues for four to six days and falls into three parts. On the opening day, the debate covers all aspects of government policies, especially in relation to the content of the Queen's Speech. On subsequent days, the debate is usually directed to more specific policy areas chosen by the Opposition party, of which all Members are informed. Each policy area is discussed for five to seven hours. The final part of the debate consists of a series of amendments to the motion, usually moved by the front bench of the main opposition parties and by way of additions to it. Through debating and voting, the House of Commons responds formally to the content of the Queen's Speech. The ensuing debate in the House of Lords on the motion is similar to that in the House of Commons.

12. Budget

Budget Statement

12.1 The financial year in the UK runs from 1 April to 31 March of the following calendar year. The Budget Statement covers both the government's taxation plans for the upcoming financial year and its assessment of the economy and public finances (including government spending) over the next few years. The Budget Statement is broadcast live to the public.

⁶ "The State Opening of Parliament", available at <http://www.explore.parliament.uk>.

12.2 Since the 1970s, the Budget Statements have been delivered mostly in March. The timing is *"to ensure that new tax rates are in place as early as possible in the new financial year"*⁷ and *"there is no direct link between the timing of the start of the parliamentary session and the date of the budget."*⁸

Involvement of Parliament

12.3 Both Houses of Parliament are not formally involved in the preparation of the Budget.⁹

Response from Parliament

12.4 There is a debate on the Budget Statement in the House of Commons. The budget debate is conventionally chaired by the Deputy Speaker. The Chancellor of the Exchequer moves the motion entitled "Amendment of the Law" to start the budget debate, followed by a series of Budget resolutions.¹⁰ When all the Budget resolutions are passed, the government tables a Finance Bill which aims to give legal effect to the Budget resolutions.

12.5 According to the Library of House of Commons, *"The House of Lords does not normally have a formal debate on the Budget Statement as such, although in recent years it has debated the economic background to the Budget. All proceedings in the House of Lords on the Finance Bill that implements the Budget tax changes are usually formalities" and "it usually passes through all stages in a single day."*¹¹

⁷ Information provided by the Parliament and Constitution Centre of the UK Parliament.

⁸ Information provided by the Library of House of Commons of the UK Parliament.

⁹ "Budgets and Financial Documents HC Factsheets - Procedure Series No 5", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm.

¹⁰ The Amendment of Law motion takes the form of a declaration *"That it is expedient to amend the law with respect to the National Debt and the public revenue and to make further provision in connection with finance, followed by a series of restrictive provisions aimed at excluding specified types of amendments being proposed to the bill."*

¹¹ "Budgets and Financial Documents HC Factsheets - Procedure Series No 5", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm.

Budgetary Cycle

12.6 The major events in the budgetary cycle are summarized in Table 2.¹²

Table 2 - Budgetary Cycle

Date	Events
1 April	Start of financial year.
August	Main Estimates, Appropriation Bill and Finance Bill have to be voted on not later than 5 August.
November	Pre-Budget Statement ("Green Budget") of the next financial year is published for public consultation.
December	Consolidated Fund Bill is voted on.
February	"Vote on Account" has to be voted on not later than 6 February to cover expenditures till 5 August.
March	Budget Statement, Finance Bill and Main Estimates of the next financial year are presented. Departmental Annual Reports are published with projection of financial situation in the next three years. Spring Supplementary Estimates of the current financial year, Excess Votes of the previous financial year and Defence Votes A of the next financial year have to be voted on not later than 18 March. Consolidated Fund Bill (No. 2) is voted on.
31 March	End of financial year.

¹² Evans, Paul, *Handbook of House of Commons Procedure*, Second Edition, London: Vacher Dod Publishing Limited, 1999, p.94; "Financial Procedure HC Factsheets - Series P No 6", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm; and Limon, Donald and McKay, W.R. eds., *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, Twenty-second Edition, London: Butterworths, 1997, pp.757 and 760.

Part 4 - The Commonwealth of Australia

13. Structure of the Legislature

13.1 The Parliament is composed of three distinct constituents: the Queen, the Senate and the House of Representatives. Although the Queen is nominally a constituent of the Parliament, the Constitution provides that she appoints a Governor-General to be her representative in Australia. The Queen's role is hence virtually titular, as the executive powers and functions of the Head of State are vested in the Governor-General by virtue of the Constitution.

13.2 The Senate has 76 Senators - 12 elected Senators for each of the six states, two for the Australian Capital Territory, and two for the Northern Territory. State Senators are elected for six-year terms while territory Senators for three-year terms. The House of Representatives has 150 Members with a term of office up to three years, and each Member represents one electoral division.

13.3 The states have equal representation in the Senate, irrespective of their population size. However, in the House of Representatives, representation is in proportion to the number of constituencies. The two Houses have equal powers but the Senate cannot initiate or amend appropriation bills. On the other hand, bills passed by the House of Representatives are reviewed by the Senate which can reject them.

13.4 The Prime Minister and members of his Cabinet are Members of the Parliament.

14. Parliamentary Period

14.1 The opening of a new Parliament is marked by traditional ceremonies and practices derived from those of the UK Parliament. After a general election, the Governor-General has the constitutional authority to appoint the time and date for holding the sessions of the Parliament.

14.2 The parliamentary period is divided into legislative sessions and lasts for a maximum of three years. A Parliament can therefore be composed of more than one sessions, and constitutionally there is no limit to the number of sessions. Likewise, there is no constitutional limit to the length of a session within a Parliament. In recent years, a typical Parliament consists of one legislative session without any intervening prorogation.

14.3 Within a legislative session, there can be several sitting periods. The usual practice since 1994 has been to have three sitting periods each year, extending from February to April (Autumn sitting), May to June (Budget sitting) and August to December (Spring sitting). In the case that the Budget is delivered in August, there will only be two sitting periods for that year: the Autumn sitting (between February and June) and the Budget sitting (between August and December).

14.4 The timing of delivery of the Governor-General's Opening Speech and the Treasurer's Budget Speech in relation to the commencement of a legislative session is shown in Table 3. Since the commencement date of a legislative session varies, this example is based on a December election, February opening and May Budget. It assumes a prorogation at the end of the first year of the Parliament.

Table 3 - Legislative Session Calendar

Month	Events
December	General Election.
February	Opening of Parliament: <ul style="list-style-type: none"> • Commencement of first session. • Commencement of Autumn sitting. • Delivery of Governor-General's Opening Speech.
May	Commencement of Budget sitting where <ul style="list-style-type: none"> • Treasurer delivers the Budget Speech. • Budget Debate is initiated. • Budget Bills are introduced.
August	Commencement of Spring sitting.
December	Prorogation of first session.

15. Commencement of Legislative Session

15.1 A legislative session commences upon the first sitting day following a general election and terminates only when:

- (a) the Parliament is prorogued; or
- (b) the Senate or the House of Representatives is dissolved; or
- (c) the session expires by effluxion of time.

15.2 When a legislative session is terminated by a prorogation, the ensuing session commences pursuant to a proclamation by the Governor-General after an indeterminate interval.

16. Governor-General's Opening Speech

16.1 The Governor-General's Opening Speech is delivered on the opening day of a new Parliament (as well as on the opening day of a new session of the Parliament after prorogation) to both Houses at the Senate Chamber.

16.2 The speech is a formal declaration of the causes of the calling together of the Parliament and contains a brief review of the affairs of the nation and a forecast of the government's proposed programme of legislation. At the conclusion of the speech, a copy is presented to both the President of the Senate and the Speaker of the House of Representatives by the Governor-General's Official Secretary.¹³

16.3 Since 1990, there have been five Parliaments, each having one legislative session without any intervening prorogation. An opening speech was delivered to the Parliament by the Governor-General during the opening day of a new Parliament.¹⁴ The speech is not constitutionally required but reflects an inheritance from the British tradition.¹⁵ The content of the speech is determined by the incumbent government, in consultation with the Governor-General's Office.¹⁶

¹³ "Infosheet, A New Parliament", available at <http://www.aph.gov.au/house/info/infosheets/is09.pdf>.

¹⁴ The opening speeches were delivered on 8 May 1990, 4 May 1993, 30 April 1996, 10 November 1998 and 12 February 2002. ("The Opening of Parliament", available at <http://www.aph.gov.au/senate/pubs/briefs/brieftwo.htm>.)

¹⁵ House of Representatives Standing Committee on Procedure, "Balancing Tradition and Progress, Procedures for the Opening of Parliament", August 2001.

¹⁶ Information provided by Clerk of the House of the Parliament of Australia.

Involvement of Parliament

16.4 Both Houses of the Parliament are not formally involved in the preparation of the Governor-General's Opening Speech.¹⁷

Response from Parliament

16.5 There is a debate on the Governor-General's Opening Speech in the House of Representatives. After the formal business is presented, the Speaker reports the Governor-General's speech to the House of Representatives and a committee is appointed to prepare an "Address in Reply" (the Address). This is purely a formal procedure as the form of the Address, an expression of loyalty to the Sovereign and thanks to the Governor-General for the speech, has been standardized through many years.¹⁸

16.6 The committee commonly comprises the Prime Minister and two new or relatively new Members of the Parliament who belong to the governing party. If the government is formed by a coalition of two parties, the committee members are usually from each coalition party, and in recent years it has been the practice to appoint a man and a woman. The committee subsequently presents the proposed Address to the House, either later that day or at a later sitting.¹⁹

16.7 When the proposed Address is presented on behalf of the Address in Reply Committee, a motion is moved that the Address be agreed to. The ensuing debate on the Address is, in practice, virtually unlimited in respect of subject matters, and ranges over a wide spectrum of government policies and administration issues. The debate on the motion can continue immediately or be adjourned to the next sitting, and usually extends over several sitting days.²⁰

16.8 The Address is traditionally an opportunity for newly elected Members to make their first speeches to the House of Representatives. Amendments to the Address can be moved in the form of an addition of words to the Address. After the Address is agreed to by the House of Representatives, it is presented to the Governor-General by the Speaker of the House. The Speaker later reports to the House of Representatives on the presentation of the Address and the reply of the Governor-General.²¹

¹⁷ Information provided by Clerk of the House of the Parliament of Australia.

¹⁸ Department of the House of Representatives, *House of Representatives Practice*, Fourth Edition, Canberra, 2001, p.228.

¹⁹ Information provided by Clerk of the House of the Parliament of Australia.

²⁰ Department of the House of Representatives, *House of Representatives Practice*, Fourth Edition, Canberra, 2001, p.229.

²¹ Ibid.

17. Budget

Budget Speech

17.1 The financial year in Australia runs from 1 July to 30 June of the following calendar year. Government departments prepare budgets based on their expected activities for the next financial year and report on their expenditures for the current year.

17.2 The Budget is the government's annual financial report and policy statement to the Parliament and the nation. There is no special procedure for budget scrutiny in the House of Representatives. The passage of the main appropriation bill (the Budget) essentially follows the same process for other bills.

17.3 The Budget day is usually in May so that the budget can be scrutinized by the Parliament before the new financial year begins. However, the Budget Speech can be delayed to August if a general election prevents it from being delivered in May, for instance in 1996. There is no direct link between the timing of Governor General's Opening Speech and the Budget Speech.²²

17.4 The Budget proceedings start with the Speaker of the House of Representatives announcing a message from the Governor-General recommending that an appropriation of revenue be made for the purpose of the annual expenditure bill.

17.5 The Treasurer of the government presents the bill to the House of Representatives and it is read the first time. The Treasurer then moves the second reading by delivering the Budget Speech in which the Treasurer compares the estimates for the current financial year with actual expenditures, reviews the economic conditions of the nation, and presents the anticipated income and expenditures together for the next financial year.²³

Involvement of Parliament

17.6 Both Houses of the Parliament are not formally involved in the preparation of the Budget.²⁴

²² Information provided by Clerk of the House of the Parliament of Australia.

²³ "Infosheet, The Budget and Financial Legislation", available at <http://www.aph.gov.au/house/info/infosheets/is10.pdf>.

²⁴ Information provided by Clerk of the House of the Parliament of Australia.

Response from Parliament

17.7 At the conclusion of the speech, the Budget Debate is adjourned on a motion moved by the Leader of the Opposition, who thus has the right to speak first when the debate is resumed. The Budget Speech is televised as is the Leader of the Opposition's speech in reply on a subsequent day.

17.8 The Budget Debate usually spans over several weeks. This is an opportunity for Members to speak on a wide range of issues because the usual rule of relevance is relaxed for this debate.

17.9 When the bill is being considered in detail, the House of Representatives examines the proposed expenditures of each government department as listed on a schedule to the bill. If the bill is read a third time, it would be sent to the Senate. The Senate immediately refers these details to its committees to conduct estimates hearings. During these hearings, Senators are able to question representatives of government departments about the proposed expenditures.

17.10 If the appropriation bills are not passed before the financial year begins, the Parliament can pass Supply Bills to provide funds in the interim.

Budgetary Cycle

17.11 The budgetary cycle for May Budget is summarized in Table 4.

Table 4 - The Budgetary Cycle for May Budget

Date	Events
1 July	Start of financial year.
October / November	For government departments that need more funds than those appropriated by the appropriation bills, additional bills are drafted to provide additional funds for the current financial year.
May	The Budget - introduction and scrutiny of the appropriation bills for the next financial year.
30 June	End of financial year.

Source: Adapted from "Infosheet, The Budget and Financial Legislation", available at <http://www.aph.gov.au/house/info/infosheets/is10.pdf>.

Part 5 - The United States of America

18. Structure of the Legislature

18.1 The US Congress is a bicameral legislature, consisting of the Senate and the House of Representatives. The US Constitution assigns both chambers equal responsibilities for declaring war, maintaining the armed forces and making all laws necessary for the operation of the government. In addition, the Senate has the exclusive authority to ratify treaties and approve presidential appointments while only the House of Representatives can originate revenue measures including appropriation bills.

18.2 The Senate comprises 100 members, two from each of the 50 states. The term of office is six years and one-third of the total membership of the Senate is elected every two years. The House of Representatives comprises 435 members and these seats are apportioned among the states by population. Every ten years, in accordance with the US Constitution, a census is taken and the population figures govern the reapportionment of House seats among states, with each state being guaranteed at least one House seat.

18.3 Under constitutional checks and balances, officials of the Executive office cannot simultaneously be Members of Congress.

19. Parliamentary Period

19.1 As stipulated by the US Constitution, Congress is divided into a two-year cycle with a first and second sessions. Within a session, the commencement and timetable of legislative days are determined by Congress. Table 5 illustrates a typical session calendar.

19.2 Unlike legislatures under the parliamentary system, Congress cannot be dissolved.

Table 5 - Session Calendar

Date	Events
3 January of the first year of term	Start of new Congress. <ul style="list-style-type: none"> • Beginning of first session.
Late January	President delivers the State of the Union Address to Joint Session of Congress.
Between the first Monday in January and the first Monday in February	President transmits the Budget Message to Congress.
January of the second year of term	<ul style="list-style-type: none"> • End of first session. • Beginning of second session.

20. Commencement of Legislative Session

20.1 The 20th Amendment to the US Constitution states that "*the terms of Senators and Representatives [shall end] at noon on the 3rd day of January... and the terms of their successors shall then begin*". Henceforth, the first session of a new Congress begins at noon on 3 January in the first year of term. The second session begins in January of the second year.

21. State of the Union Address

21.1 The timing of the State of the Union Address is inherited from tradition. In January 1790, the first president of the US, George Washington, attended the Federal Hall in New York for a joint meeting of the Senate and the House of Representatives. During the meeting, Washington gave a speech to call for the unity of the 13 states. Each House subsequently debated and approved official replies to the President's message. This was the first annual message delivered to Congress, setting a precedent for future Presidents to deliver an annual message to the American people in January.²⁵

²⁵ <http://www.whitehouse.gov/stateoftheunion/history.html>.

21.2 Despite the structure of separation of powers, the US Constitution imposes an obligation on the President to report to Congress "*from time to time [on] the State of the Union*" and to recommend for consideration such measures as the President considers necessary and expedient. Nevertheless, there is no legislation specifying the time and place of the speech, or requiring the President to deliver the speech in person.²⁶

21.3 The State of the Union Address is delivered annually by the President at an evening joint session of Congress at the House of Representatives Chamber during January. Most Presidents use the State of the Union Address to outline their legislative agendas and national priorities.

21.4 The President, with the assistance of his advisors, prepares the State of the Union Address. There appears to be no relationship between the timing of the State of the Union Address and the Budget Message of the President, although the Address frequently contains proposed legislative actions that will require appropriations.²⁷

Involvement of Congress

21.5 Congress is not formally involved in the preparation of the State of the Union Address. Any consultation that occurs between Members of Congress and the President is voluntary on the part of the President. In fact, it is not unusual for congressional leaders of the President's political party to be tapped for ideas to include in the State of the Union Address.²⁸

Response from Congress

21.6 After the President concludes his State of the Union Address, there are no debates or formal acknowledgements made by Congress in response to the President's Address other than a motion to stand in recess until the next legislative day.²⁹

21.7 Many of the executive communications containing legislative proposals evolve from the State of the Union Address. The communication is then referred to the standing committees having jurisdiction on the subject matter of the proposal. Debates ensue in the context of consideration of the President's legislative agenda which is subsequently submitted in writing both as the Budget Message and as legislative messages often containing draft legislation referred to the committees in the House of Representatives and the Senate.³⁰

²⁶ Information provided by the National Conference of State Legislatures.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Information provided by House Parliamentarian of the Office of the Parliamentarian.

22. Budget

Budget Message

22.1 The US Constitution does not require the President to present an annual budget. Nonetheless, the Budget and Accounting Act became law in 1921 and laid the foundation for the modern budgetary process. More recently, the Congressional Budget and Impoundment Control Act of 1974 (the Act) establishes a timetable of the annual budgetary process, which begins each year with the Presidential budget submission.³¹

22.2 The fiscal year in the US begins on 1 October and ends on 30 September of the following year. The Act specifies that the President is to transmit the budget to Congress on or after the first Monday in January but not later than the first Monday in February of the same year. This gives Congress eight to nine months before the beginning of the next fiscal year to act on the budget.

22.3 The President transmits the budget to both chambers of Congress in writing, and no speech is presented.³² The President's budget is generally viewed as a detailed outline of the government's policy and funding priorities, as well as a presentation of the revenue and expenditure outlook of the upcoming fiscal year.

22.4 The transmission of the budget coincides with the timing of the President's annual State of the Union Address but there is no statutory or constitutionally prescribed relationship among the convening of Congress, the State of the Union Address and the transmission of the federal budget by the President to Congress.³³

³¹ The enactment of the Act of 1974 was due to two reasons. One reason was the realization of Congress that it had no means to develop an overall budget plan. Prior to 1974, Congress responded to the President's budget each year in a piece-meal fashion. There existed no framework for Congress to establish its own spending priorities. A second and more immediate cause was a dispute in the early 1970s regarding presidential authority to impound money appropriated by Congress. President Nixon repeatedly asserted authority to withhold from Federal agencies money appropriated by Congress. It was believed that Nixon had impounded up to US\$15 billion of spending previously approved by Congress. The escalation of legislative-executive budget confrontations triggered budgetary reform and resulted in the formation of the Act. ("The Congressional Budget Process", available at http://www.senate.gov/~budget/republican/reference/cliff_notes/cliffoc.htm.)

³² Information provided by House Parliamentarian of the Office of the Parliamentarian.

³³ Information provided by the National Conference of State Legislatures.

Involvement of Congress

22.5 There is consultation among the President, the Office of Management and Budget,³⁴ and both Houses of Congress prior to submission of the Budget Message in writing.³⁵

Response from Congress

22.6 There are no formal acknowledgements of receipt of the written message by the House of Representatives or the Senate other than to commence hearings.³⁶

22.7 The Congressional Budget Office (CBO), a nonpartisan congressional support office, provides an independent budget forecast to Congress. It sets its own targets for the federal budget, including the overall revenues and expenditures, independently from the President's Budget Message. Based on CBO's budget projections, Congress decides on budget totals. The Act requires each standing committee of both Houses to recommend budget levels and report legislative plans concerning matters within the committee's jurisdiction to the Budget Committee in each chamber. The Budget Committees then initiate the concurrent resolution on the budget.³⁷

22.8 Appropriation bills are then initiated into the House of Representatives. The Appropriation Committee in each chamber is divided into subcommittees that hold hearings and reviews of detailed budget justification materials prepared by the agencies. After a bill has been amended by a subcommittee, the committee and the whole House of Representatives, in turn, must approve the bill. The House of Representatives then forwards the bill to the Senate, where a similar review follows.

22.9 If the Senate disagrees with the House of Representatives on particular matters in the bill, the two chambers form a conference committee to resolve the differences. The conference committee revises the bill and returns it to both chambers of Congress for approval. When the revised bill is agreed to, first in the House of Representatives and then in the Senate, Congress sends it to the President for approval. The President can approve or veto an entire bill but not selected parts of a bill.

³⁴ The Office of Management and Budget, a federal agency under the Executive Office, is responsible for overseeing the preparation of the President's budget and helping government departments to establish budgetary planning.

³⁵ Information provided by House Parliamentarian of the Office of the Parliamentarian.

³⁶ Information provided by the National Conference of State Legislatures.

³⁷ "The Budget for Fiscal Year 2003: Budget System and Concepts and Glossary", Office of Management and Budget, 2002.

22.10 Congress is not bound to adhere to the President's budget which is considered as a starting point for the budgetary process. Since the President's signature is ultimately required to implement spending, policy and revenue actions, reconciliation directives can be added to the budget resolutions to bring Congress and the President to an agreement of the budget terms.

Budgetary Cycle

22.11 Table 6 summarizes the budgetary cycle.

Table 6 - Budgetary Cycle

Date	Events
1 October	Start of fiscal year.
Between the first Monday in January and the first Monday in February	President transmits the budget for the next fiscal year.
No later than six weeks after budget transmission	Congressional committees submit budget estimates to Budget Committees.
15 April	Action to be completed on congressional budget resolution.
15 May	House of Representatives' consideration of annual appropriation bills begins.
15 June	Action to be completed on reconciliation.
30 June	Action on appropriations to be completed by the House of Representatives after the bills are reviewed by the Senate.
15 July	President transmits Mid-Session Review of the budget.
30 September	End of fiscal year.

Source: Adapted from "The Budget for Fiscal Year 2003: Budget System and Concepts and Glossary", Office of Management and Budget, 2002.

Part 6 - The State of New Jersey

23. Structure of the Legislature

23.1 The government of the State of New Jersey, like the federal government, is divided into three coequal branches - the legislative, the executive, and the judicial branches. The principal function of the Legislature is to enact laws. The Executive branch carries out the programmes established by law. The Judiciary punishes violators and is the final authority on the meaning and constitutionality of laws.

23.2 The New Jersey State Legislature (Legislature) consists of two Houses - the Senate and the General Assembly. The Senate has 40 members, each serving a term of four years. The General Assembly has 80 members, each serving a term of two years. Legislative elections are held in November every two years.

23.3 Officials of the Executive office are prohibited from simultaneously serving in the Legislature. This is due to the constitutional principle of separation of powers. In addition, the New Jersey State Constitution (State Constitution) specifies that "*if any member of the Legislature shall become a member of Congress or shall accept any Federal or State office or position, of profit, his seat shall thereupon become vacant.*"

24. Parliamentary Period

24.1 The State Constitution provides that each Legislature is constituted for a term of two years, splitting into two annual sessions. It also specifies that all legislative business from the first year can continue into the second year, thus the distinction between the two annual sessions is more ceremonial than actual. Within a session, each House sets its own session days. Table 7 illustrates a typical session calendar.

24.2 Unlike legislatures under the parliamentary system, the Legislature cannot be dissolved.

Table 7 - Session Calendar

Date	Events
Second Tuesday in January of the first year of term	Start of new Legislature. <ul style="list-style-type: none"> • Beginning of first session.
Second Tuesday in January every year	Governor delivers the State of the State Address to Joint Session of Legislature.
On or before third Tuesday following the first meeting of Legislature	Governor delivers the Budget Message to Joint Session of Legislature.
Second Tuesday in January of the second year of term	<ul style="list-style-type: none"> • End of first session. • Beginning of second session.

25. Commencement of Legislative Session

25.1 The State Constitution stipulates that the first session of the two-year legislative term begins at noon on the second Tuesday in January every other year. At the end of the second year, all unfinished business expires. The second session begins on the second Tuesday in January of the following year.

26. State of the State Address

26.1 The State of the State Address describes past policy accomplishments and outlines the Governor's policy agenda for the upcoming year. It is given on the first day of every session. The timing of delivery of the State of the State Address is stipulated in the State Constitution that the "*Governor shall communicate to the Legislature, by message at the opening of each regular session and at such other times as he may deem necessary, the condition of the State, and shall in like manner recommend such measures as he may deem desirable.*"

26.2 The Governor, with the assistance of his staff, prepares the State of the State Address which is delivered to a joint session of the Legislature in the General Assembly chamber. It is televised live to the public.

Involvement of Legislature

26.3 Under current law, the Legislature is not involved in the preparation of the State of the State Address, nor is it consulted with respect to the speech content. Members of the Legislature receive copies of the speech in advance.³⁸

Response from Legislature

26.4 After the speech is delivered to the Legislature, there are no debates or formal acknowledgements made by the Legislature in response to the Governor's address. The remarks presented by the Governor manifest themselves as legislative proposals and are debated by the Legislature in that capacity throughout the session.³⁹

27. Budget

Budget Message

27.1 The fiscal year in the State of New Jersey begins on 1 July and ends on 30 June of the following year. The New Jersey Statute Annotated stipulates that the Governor is to deliver the Budget Message on or before the third Tuesday following the first meeting of the Legislature, except in the year when a Governor is inaugurated, then the date will be on or before 15 February following commencement of the term.⁴⁰

27.2 The content of the state Budget provides information on anticipated state revenue, gubernatorial policies and new initiatives. It includes a description of the economic situation within the state and the expected impact of projected economic trends on the state's fiscal conditions. Summaries of revenues and expenditures of executive agencies for the next fiscal year are presented in details.

27.3 The Budget Message is presented by the Governor to both Houses of the Legislature in the General Assembly chamber. The speech is broadcast live to the public. The Budget Message comes early in the session in order to allow the Legislature ample time to consider and review the budget before passing the appropriation bills.⁴¹

³⁸ Information provided by the New Jersey State Legislature.

³⁹ Ibid.

⁴⁰ "NJ State Budget FY 2002 - 2003", available at
<http://www.state.nj.us/treasury/omb/publications/03budget>.

⁴¹ Information provided by the New Jersey State Legislature.

27.4 There is no direct relationship between the Budget Message and the State of the State Address since each serves different purposes. Additionally, there is no legislative history or constitutional convention that stipulates the closeness in timing of the two speeches.⁴²

Involvement of Legislature

27.5 The Legislature is not formally involved in the preparation of the Governor's budget. However, the political situation of the times can prompt informal contacts between the Governor's office and Members of the Legislature before the Governor delivers the budget.⁴³

Response from Legislature

27.6 There are no debates or formal acknowledgements made by the Legislature in response to the Governor's budget.⁴⁴

27.7 Following the delivery of the Budget Message, the Legislature, through a series of hearings conducted by its Appropriation Committees, reviews the budget and makes changes. The Legislature also reviews the revenue estimates included in the Governor's budget and, based on several additional months of actual revenue collections in the current fiscal year, makes adjustments to the budget's revenue projections and surplus estimates. The budget, including changes made by the Appropriation Committees, must then be approved by both the Senate and the General Assembly. According to the State Constitution, a balanced budget must be approved and signed by the Governor before 1 July.⁴⁵

27.8 After the Legislature passes the Appropriation Bill, the Governor has the power to veto specific appropriates (line-items). The line-item veto allows the Governor to reshape the final budget and ensures that appropriations do not exceed the certified level of revenues. The final approved budget, which includes the Governor's line-item vetoes and certification of revenues, becomes the Appropriation Act.

⁴² Information provided by the New Jersey State Legislature.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ "NJ State Budget FY 2002 - 2003", available at <http://www.state.nj.us/treasury/omb/publications/03budget>.

Budgetary Cycle

27.9 Table 8 summarizes the budgetary cycle.

Table 8 - Budgetary Cycle

Date	Events
1 July	Start of fiscal year.
August - September	State agencies prepare budget documents for the next fiscal year. The Office of Management and Budget (OMB) reviews the planning documents with the agencies to agree on budget targets.
December - January	Governor, State Treasurer and Director of OMB review budget recommendations. Governor makes the final decisions in January.
On or before third Tuesday following the first meeting of Legislature	Governor delivers the Budget Message to Joint Session of Legislature.
February - June	<ul style="list-style-type: none"> • Legislature conducts hearings held by its Appropriation Committees to review the budget and make adjustments. The amended budget must be approved by Senate and General Assembly before it is passed to Governor. • Governor has power to veto specific appropriates to ensure that they do not exceed budgetary level.
30 June	<ul style="list-style-type: none"> • End of fiscal year. • Deadline for passing the Appropriation Bill for the new fiscal year.

Source: Adapted from "NJ State Budget FY 2002 - 2003", available at <http://www.state.nj.us/treasury/omb/publications/03budget>.

Part 7 - Analysis

28.1 Table 9 to Table 11 compare various attributes of the structure of the legislature, policy address and budget speech in the four jurisdictions studied with those of Hong Kong. The following analysis will focus on the commencement of legislative session and its relationship with the timing of policy address and budget speech.

Commencement of Legislative Session

28.2 The 1911 Parliament Act stipulates that the UK parliamentary period cannot exceed five years, while the Australian Constitution stipulates that the Australian parliamentary period cannot exceed three years. Upon the decision of the corresponding Prime Minister, the parliamentary period of the UK and Australia can be shorter than the maximum period allowed. On the contrary, the parliamentary periods in both the US and the State of New Jersey are fixed by their respective constitutions.

28.3 In the UK and Australia, the exact dates of commencement of legislative session are decided by the sovereign and the Governor-General respectively upon the advice of the corresponding Prime Minister. Nevertheless, the exact date of commencement of legislative session of the two jurisdictions usually falls within a specific month, except during election years. In both the US and the State of New Jersey, the dates of commencement of legislative session are again fixed by their respective constitutions.

Situation in Hong Kong

28.4 The Basic Law of Hong Kong Special Administrative Region (The Basic Law) stipulates that the term of office of LegCo is fixed at four years. According to Section 9 (2) of the Legislative Council Ordinance, "*The Chief Executive must publish in the Gazette the dates on which an ordinary session of the Legislative Council is to begin and end.*"

28.5 The determination of parliamentary periods in Hong Kong involves different practices of the overseas jurisdictions under study. Similar to the US and the State of New Jersey, the term of office of LegCo is stipulated by constitution (which is The Basic Law). On the other hand, the dates of commencement and end of the term of office of LegCo as well as legislative sessions are determined by the head of government as in the UK and Australia.

Timing of Policy Address in Relation to Commencement of Legislative Session

28.6 In all jurisdictions under study, the "policy address" is delivered to the legislature. Although there is no designated date for the delivery of policy address, it coincides with the beginning of a legislative session. In the UK and Australia, the delivery of policy address is part of the opening ceremony of the legislative session. In these two jurisdictions, the commencement of a legislative session by convention falls on a specific month, not on a particular date. The commencement can vary due to election timing.

28.7 In the State of New Jersey, the policy address is delivered on the first day of the legislative session, which is the second Tuesday in January. In the US, while the policy address is not necessarily delivered on the first day of the legislative session, it is delivered by convention in the first month of the legislative session.

Situation in Hong Kong

28.8 Similar to overseas jurisdictions under study, the policy address is delivered to the legislature in Hong Kong. Since the 1969-70 session, 29 out of 33 policy addresses were delivered to LegCo at the first meeting of legislative sessions, with the exceptions being in the 1983-84, 1997-98, 1998-99 and 2000-01 sessions.

28.9 In July 1998, the Committee on Rules of Procedure started designing the details of legislative sessions for the first and second terms of LegCo. Concerning the delivery of policy address, *"The Committee thought that if the Chief Executive is to deliver his policy address at the first meeting of a Session, then in order to reflect the function of the Legislative Council in hearing and debating on the policy address of the Chief Executive, and to help Members anticipate the amount of work to be handled in the first meeting of a Session, it would be proper to add the new subrule (1A) to Rule 13 of the Rules of Procedure, to specify that the Chief Executive shall deliver a policy address to the Council, if he so wishes, at the first meeting of a Session."*⁴⁶

28.10 Although the date for the delivery of policy address is not specified in any statutory requirements, as a convention, it has usually been delivered at the first meeting of legislative sessions.

⁴⁶ LC Paper No. CB(1) 73/98-99 and Hansard of meeting on 28 April 1999.

Timing of Budget Speech in Relation to Commencement of Legislative Session

28.11 In the US and the State of New Jersey, laws stipulate a specific period in which the budget message is delivered. It is usually delivered in the first month of a legislative session. In the UK and Australia, there is no written law specifying the timing of delivery of the budget speech but the speech by convention falls on a specific month, not on a particular date. Excluding election years, the budget speech of both the UK and Australia is by convention delivered in the middle of the legislative session.

28.12 The difference in timing of the budget speech among the overseas jurisdictions studied can be attributed to the difference between the parliamentary and presidential systems. In the parliamentary system, the governing party essentially plays both the executive and legislative roles since the governing party has the majority votes in the legislature to ensure the passage of the appropriation bills. In the presidential system, the executive and legislative branches are more independent from each other even if they are controlled by the same party. Early submission of budget to the legislature thus provides sufficient time for budget discussion to ensure its passage before the new fiscal year begins.

28.13 Among the jurisdictions studied, there is no statutory relationship between the timing of budget speech and the commencement of legislative session.

Situation in Hong Kong

28.14 Since the 1969-70 session, the budget speech has been traditionally delivered in the middle of the legislative session in February or March by the Financial Secretary to LegCo.

Timing of Policy Address in Relation to Budget Speech

28.15 Among the jurisdictions studied, no relationship is found between the timing of policy address and budget speech although the policy address and budget speech themselves are obviously related since they both contain the government's policy initiatives for the near future. Additionally, there is no prescribed statutory relationship between the delivery of the two speeches.

Situation in Hong Kong

28.16 From 1948 to 1969, the Governor's annual speech and the Financial Secretary's budget speech were delivered on the same day in February or March.

28.17 In the LegCo meeting on 25 September 1968, the Colonial Secretary proposed the revision of the Standing Orders. Concerning the timing between the policy address and budget speech, the Colonial Secretary requested to move the Governor's annual speech to the commencement of legislative session so as to "*give an opportunity for this Council, during October in each year, to debate the Government's general policies in connection with the Governor's Speech, as it were, from the Throne and, during March in each year, to discuss more particularly economic policy and the annual Estimates.*"⁴⁷ The proposed revision of the Standing Order was passed.

⁴⁷ "*Part B [of the proposed revised Standing Order] contains some of the most important new provisions. Order No 5 provides for an annual session of the Council. Each session will end on 30th September and the next session will open within six weeks of that date. Order No 6 deals with the opening sitting of the new session and makes it an occasion for a speech by the Governor. Thereafter a debate can be held on a motion to thank the Governor for his speech, the debate, if necessary, continuing over more than one day. Under our present practice the Governor's annual speech reviewing the state of the Colony and the Financial Secretary's budget speech are both given on the same day and these are followed at intervals by long and wide-ranging speeches by all Unofficial and most Official Members. I believe that there is a general feeling among honourable Members that with the complexity of modern Hong Kong the fare provided by this marathon annual debate is becoming too much to digest at any one time; and that there would be advantage in spreading the load. These new provisions are designed to do this and will give an opportunity for this Council, during October in each year, to debate the Government's general policies in connection with the Governor's Speech, as it were, from the Throne and, during March in each year, to discuss more particularly economic policy and the annual Estimates.*"

28.18 In a letter to the Chairman of the House Committee dated 25 June 2002, the Chief Secretary (CS) for Administration set out a new timetable for and described the rationale behind the change of timing of the delivery of the Policy Address. At present, the Policy Address is delivered in October whereas the Budget Speech is delivered in March of the following year. According to CS, the five-month gap between the Policy Address and the Budget Speech *"has resulted in a considerable delay in the implementation of those proposals in the Chief Executive's Address which require new funding."* The new arrangement, with the Policy Address delivered on 8 January 2003 and the Budget Speech on 5 March 2003, will *"narrow the time gap"* between the two speeches to *"ensure the speedy implementation of new policy initiatives, to the benefit of the community at large."*

Table 9 - Comparison of Legislatures

	The United Kingdom	The Commonwealth of Australia	The United States of America	The State of New Jersey	Hong Kong
Name	Parliament.	Parliament.	Congress.	New Jersey State Legislature.	Legislative Council (LegCo).
Basis of Formation	Uncodified Constitution.	Codified Constitution – Commonwealth of Australia Constitution Act.	Codified Constitution – Constitution of the US.	Codified Constitution – New Jersey State Constitution.	Codified Constitution - The Basic Law of the Hong Kong Special Administrative Region.
Chambers	House of Lords and House of Commons.	Senate and House of Representatives.	Senate and House of Representatives.	Senate and General Assembly.	Legislative Council.
Number of Member	House of Lords – 701 House of Commons – 659	Senate – 76 House of Representatives – 150	Senate – 100 House of Representatives – 435	Senate – 40 General Assembly – 80	60.
Term of Office	House of Lords – life, except bishops who stop being Members when they retire. House of Commons – not exceeding 5 years.	State Senators – 6 years. Territory Senators – 3 years. House of Representatives – not exceeding 3 years.	Senators – 6 years. House of Representatives – 2 years.	Senators – 4 years. General Assembly – 2 years.	4 years.
Member	House of Lords – appointed. House of Commons – elected.	All elected.	All elected.	All elected.	Elected through <ul style="list-style-type: none"> • geographical constituency • functional constituency • election committee
Whether Members of the Executive are Members of the Legislature?	Yes. Cabinet Ministers must be Members of Parliament.	Yes. Cabinet Ministers must be Members of Parliament.	No. Officials of Executive office cannot simultaneously be Members of Congress.	No. Officials of Executive office cannot simultaneously be Members of Legislature.	Yes. Some LegCo members are appointed to the Executive Council.
Parliamentary Period	Commences after a general election and not exceeding 5 years.	Commences after a general election and not exceeding 3 years.	Commences at noon on 3 January of the first year of term. Fixed term of 2 years.	Commences at noon on the second Tuesday in January of the first year of term. Fixed term of 2 years.	Commences after a general election. Fixed term of 4 years.
Rationale of Timing of Parliamentary Period	Evolution over centuries.	Inheritance from the UK Parliament.	Stipulated by the US Constitution.	Stipulated by the New Jersey State Constitution.	Stipulated by The Basic Law
Legislative Session	Indeterminate length, usually from October or November of one year to October or November of the following year.	Indeterminate length, up to 3 years.	Fixed, 1 year.	Fixed, 1 year.	Indeterminate length, usually from October of one year to October of the following year.
Prorogation	The Sovereign has the legislative prerogative to prorogue Parliament upon the advice of the Prime Minister.	The Governor-General has the constitutional authority to prorogue Parliament upon the advice of the government.	Not Applicable.	Not Applicable.	According to Legislative Council Ordinance, the Chief Executive has the legal authority to prorogue LegCo.
Constitutional Provisions and Conventions for Dissolution	The Sovereign has the legislative prerogative to dissolve Parliament upon the advice of the Prime Minister.	The Governor-General has the constitutional authority to dissolve the House of Representatives upon the advice and approval of the Prime Minister. The Governor-General has the constitutional authority to dissolve the Senate if there is a legislative deadlock.	Congress cannot be dissolved.	Legislature cannot be dissolved.	The Chief Executive has the power to dissolve LegCo under The Basic Law.

Table 10 - Comparison of Policy Addresses

	The United Kingdom	The Commonwealth of Australia	The United States of America	The State of New Jersey	Hong Kong
Name	Queen's Speech.	The Governor-General's Opening Speech.	State of the Union Address.	State of the State Address.	Policy Address.
Occasion/Timing	State Opening of a new Parliament and the opening of a new session of the Parliament after prorogation.	Opening day of a new Parliament and opening day of a new session of the Parliament after prorogation.	Every year in January.	On the first day of every legislative session.	At the beginning of every legislative session, usually in the first meeting.
Rationale of Occasion/Timing	Evolution over centuries.	Inheritance from the UK Parliament.	Tradition since President George Washington.	Stipulated by the New Jersey State Constitution.	Inheritance from the UK Parliament.
Where	In the House of Lords.	The Senate Chamber of the Parliament House.	The House of Representatives Chamber of Congress.	The General Assembly Chamber of the Legislature.	LegCo Chamber.
Presenter	The Queen.	The Governor-General.	The President.	The Governor.	The Chief Executive.
Preparation	Government with the approval of the Cabinet.	Government in consultation with the Governor-General's Office.	The President and his Cabinet.	The Governor and his staff.	The Chief Executive and government officials.
Content	Bills and policies that the government will introduce.	Brief review of the affairs of the nation and a forecast of the government's proposed programme of legislation.	Review of the President's key legislative and regulatory agenda priorities.	Past accomplishments and outline of the Governor's policy agenda.	Review of existing government policies and new policy proposal.
Response from Legislature	Loyal Address debate followed by the presentation of Address to the Queen. Debate is conducted as a formal response to the Speech.	Address in Reply debate followed by the presentation of Address to Governor-General. Debate is conducted as a formal response to the Speech.	No debate to acknowledge the State of the Union Address. Debates ensue in the context of consideration of the President's legislative agenda passed to Congress.	No debate to acknowledge the address. Debates ensue in the context of consideration of the Governor's legislative agenda passed to the Legislature.	Motion of Thanks Debate. Debate is conducted as a formal response to the Speech.

Table 11 - Comparison of Budget Speeches

	The United Kingdom	The Commonwealth of Australia	The United States of America	The State of New Jersey	Hong Kong
Fiscal Year	1 April to 31 March of the following calendar year.	1 July to 30 June of the following calendar year.	1 October to 30 September of the following calendar year.	1 July to 30 June of the following calendar year.	1 April to 31 March of the following calendar year.
Format of Presentation	Speech delivered in the House of Commons.	Speech delivered in the House of Representatives.	Budget Message in writing delivered to Congress.	Speech delivered in the General Assembly Chamber.	Speech delivered in LegCo Chamber.
Timing	Mostly in March.	Normally in May. If there is a general election in May, the Budget will be delivered in August.	Between the first Monday in January and the first Monday in February.	On or before the third Tuesday following the first meeting of the Legislature. In the year the Governor is inaugurated, the budget must be transmitted on or before 15 February.	Usually on a Wednesday in February/March.
Rationale of Timing	Evolution over centuries.	Inheritance from the UK Parliament.	Stipulated by the Act of 1974.	Stipulated by the New Jersey Statute Annotated.	Inheritance from the UK Parliament.
Presenter	Chancellor of the Exchequer.	The Treasurer of government.	The President.	The Governor.	The Financial Secretary.
Preparation	HM Treasury.	The Treasurer and his staff.	The President, the Office of Management and Budget, and both Houses of Congress.	The Governor, his staff and the Office of Management and Budget.	The Financial Secretary and government officials.
Content	Government's taxation plans for the coming year and its assessment of the economy and public finances (including government spending) over the next few years.	Being the annual financial report of national revenues and expenditures, the budget contains the main appropriation bill of the year.	Provides financial measure of federal revenues, expenditures and their impact on the economy. Details allocation of resources for the country.	Details of revenues and expenditure outlook. Review of the economic situation and projection of economic trends within the state.	Government's taxation plans for the coming year and its assessment of the economy and public finances over the next few years.
Response from Legislature	The Chancellor of the Exchequer moves the Budget resolutions. The budget debate lasts for three to five days.	Budget Debate is initiated by the Leader of Opposition. The bill is first considered by the House of Representatives and then the Senate which commences hearings with the government departments.	There are no formal acknowledgements of receipt of the written message by Congress. Congress adopts a budget resolution. Appropriation bills are initiated in the House of Representatives and passed onto the Senate for review.	There are no formal acknowledgements in response to the Budget Speech. The budget is passed onto the Legislature for review and approval.	The Financial Secretary moves the Appropriation Bill. The budget debate lasts for several days.
Interim Legislation Required	Budget resolutions passed have temporary validity until 5 August, providing time for the Finance Bill to become law. Before 6 February, the House of Commons passes a "Vote on Account" covering expenditures till 5 August.	If the appropriation bills are not passed before the financial year begins, Supply Bills will be passed to provide funds in the interim.	When Congress does not complete action on the appropriation bills by the beginning of the fiscal year, it enacts a "continuing resolution" to provide authority for the affected agencies to continue operation up to a specific date or until their regular appropriations are enacted.	No interim bills are enacted. If the appropriation bills are not enacted before the 30 June deadline, the state government will be unable to fund itself until the bills get signed.	Section 7(1) of the Public Finance Ordinance authorize the expenditure of a sum on the services of the government before the Appropriation Bill is enacted.

References

The United Kingdom

1. Limon, Donald and McKay, W.R. eds, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, Twenty-second Edition, London: Butterworths, 1997.
2. "Sittings of the House HC Factsheets - Procedure Series No 4", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm.
3. "The State Opening of Parliament", available at <http://www.explore.parliament.uk>.
4. Hansard Volume 370, available at <http://www.publications.parliament.uk/pa/cm/cmvol370.htm>.
5. Evans, Paul., *Handbook of House of Commons Procedure*, Second Edition, London: Vacher Dod Publishing Limited, 1999.
6. "Financial Procedure HC Factsheets - Series P No 6", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm.
7. "Budgets and Financial Documents HC Factsheets - Procedure Series No 5", available at http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm.
8. H. M. Treasury in *The Financial Statement and Budget Report 1997*, available at <http://archive.treasury.gov.uk/budget/1997/report/fsbr.htm#contents>.
9. Hansard of sittings 17th, 18th, 22nd, and 23rd April 2002 available at <http://www.publications.parliament.uk/pa/cm/cmhn0204.htm>.

Australia

1. Department of the House of Representatives, *House of Representatives Practice*, Fourth Edition, Canberra, 2001.
2. "The Australia Constitution", available at <http://www.aph.gov.au/senate/general/constitution/>.
3. "The Opening of Parliament", available at <http://www.aph.gov.au/senate/pubs/briefs/brieftwo.htm>.

4. "Balancing Tradition and Progress, Procedures for the Opening of Parliament, August 2001", available at <http://www.aph.gov.au/house/committee/proc/reports/opening/opreport.pdf>.
5. "The Standing and Sessional Orders", available at <http://www.aph.gov.au/house/pubs/standos/>.
6. "Your Key to the House, A guide to your House of Representatives", available at <http://www.aph.gov.au/house/pubs/key/yourkey.pdf>.
7. "Infosheet, A New Parliament", available at <http://www.aph.gov.au/house/info/infosheets/is09.pdf>.
8. "Infosheet, The Budget and Financial Legislation", available at <http://www.aph.gov.au/house/info/infosheets/is10.pdf>.
9. "Infosheet, The House, Government and Opposition", available at <http://www.aph.gov.au/house/info/infosheets/is19.pdf>.
10. "Infosheet, The Australian System of Government", available at <http://www.aph.gov.au/house/info/infosheets/is20.pdf>.
11. Web site of the Parliament of Australia. <http://www.aph.gov.au>.
12. Web site of the Governor-General of the Commonwealth of Australia. <http://www.gg.gov.au>.
13. Web site of the Prime Minister of Australia. <http://www.pm.gov.au>.

The United States of America

1. Kurian, George Thomas., *World Encyclopaedia of Parliaments and Legislatures*, Washington D.C.: Washington D.C. Congressional Quarterly Inc, 1998.
2. Johnson, Charles W., *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States One Hundred Fifth Congress*, Washington D.C.: U.S. Government Printing Office, 1997.
3. The International Centre for Parliamentary Documentation of the Inter-Parliamentary Union, *Parliaments of the World: A Comparative Reference Compendium*, Second Edition, Volume I & II, England: Gower Publishing Company Limited, 1986.

4. Kwong, Walter, *Systems of Government in Some Foreign Countries: The United States*, HK: Legislative Council Secretariat, 2000.
5. Liu, Eva, Chau, Pak-kwan and Wong, Elyssa., *Systems of Government in Some Foreign Countries: The Overall Comparison Table*, HK: Legislative Council Secretariat, 2000.
6. Heniff Jr., Bill, "The Congressional Budget Actions in 2002", Congressional Research Services, The Library of Congress, 2002.
7. Neale, Thomas H., "The President's State of the Union Message: Frequently Asked Questions", Congressional Research Services, The Library of Congress, 2001.
8. "The Constitution of the United States", available at http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution.html.
9. "Budget System and Concepts and Glossary", available at <http://w3.access.gpo.gov/usbudget/fy2003/pdf/concepts.pdf>.
10. "The Congressional Budget Process", available at http://www.senate.gov/~budget/republican/reference/cliff_notes/clifftoc.htm.
11. "The Annual Budget Process", available at http://www.house.gov/rules_bud/annual.htm.
12. "How Our Laws are Made", available at <http://thomas.loc.gov/home/lawsmade.toc.html>.
13. Web site of the Inter-Parliamentary Union. <http://www.ipu.org>.
14. Web site of the National Conference of State Legislatures. <http://www.ncsl.org>.
15. Web site of the White House. <http://www.whitehouse.gov>.
16. Web site of the United States House of Representatives. <http://www.house.gov>.
17. Web site of the United States Senate. <http://www.senate.gov>.
18. Web site of Thomas, Legislative Information on the Internet. <http://thomas.loc.gov>.
19. Web site of the United States Government Printing Office. <http://www.access.gpo.gov>.

20. Web site of the US National Archives and Record Administration. <http://www.archives.gov>.
21. Web site of C-Span, Public Affairs on the Web. <http://www.c-span.org>.
22. Web site of ABC News. <http://abcnews.go.com>.

The State of New Jersey

1. Office of Legislative Services of New Jersey State Legislature, "Analysis of the New Jersey Fiscal Year 2002-2003 Budget", April 2002.
2. Office of Legislative Services of New Jersey State Legislature, *Legislator's Handbook*, 2000-01 Edition.
3. "New Jersey State Constitution", available at <http://www.njleg.state.nj.us/lawsconstitution/constitution.asp>.
4. "NJ State Budget FY 2002 - 2003", available at <http://www.state.nj.us/treasury/omb/publications/03budget>.
5. Web site of the New Jersey Legislature. <http://www.njleg.state.nj.us>.
6. Web site of the State of New Jersey. <http://www.state.nj.us>.

Tel No. : 2810 3838

Fax No. : 2804 6870

2 January 2003

Ms Miranda Hon
Clerk to the Committee
Committee on Rules of Procedure
Legislative Council
8 Jackson Road
Central
Hong Kong

Dear Ms Hon

**Committee on Rules of Procedure (Rules Committee)
Arrangements for future Policy Addresses**

Thank you for your letter of 5 November 2002, regarding the timetable and scope of the Government's review of the arrangements for future Policy Addresses. Following consultation within the Administration, I am now able to revert to the Rules Committee on the details of the review.

We will examine in the review whether the new timetable for delivering the Policy Address in 2003 (i.e. delivery of the Policy Address in January, with the Budget timing remaining unchanged in March) would satisfactorily meet our objective of expediting the implementation of the Policy Address initiatives with funding requirements, so that the community could benefit from those initiatives at the earliest possible juncture.

We will also critically examine whether the new timetable will contribute to a better synchronisation of work -

- within Government, in the preparation of the Policy Address and Budget proposals;

- between Government and LegCo, vis-à-vis Members' consideration of and debate on the Policy Address and Budget proposals; and
- between Government and stakeholders, including LegCo, on the consultation process and timetable on the Policy Address and Budget proposals.

In considering the longer-term arrangement for the delivery of the Policy Address, we would revisit the pros and cons, and the full implications of the various options of narrowing the time gap between the Policy Address and the Budget, drawing, where appropriate, from overseas experiences. These options include –

- For the Chief Executive to deliver his Policy Address in January of the year, and for the Budget to be delivered in March of the year;
- For the Chief Executive to deliver his Policy Address at the beginning of a new LegCo session in early October of the year, and for the Budget to be delivered in January the following year;
- Taking into account that the term of the Chief Executive starts in July, for the Chief Executive to deliver his Policy Address in July of the year, and for the Budget to be delivered in September of the year.

Turning to the timing, we aim to conclude the review as soon as possible following the completion of the 2003 Policy Address and Budget exercises in March 2003.

Yours sincerely,

(Andrew H Y Wong)
Director of Administration

立法會
Legislative Council

LC Paper No. CROP 31/02-03

Ref: CB(3)/CROP/3

**Paper for the Committee on Rules of Procedure meeting
on 6 March 2003**

Arrangements for future Policy Addresses

Purpose

This paper sets out for members' consideration the implications on the operation of the Legislative Council (LegCo) of the three possible options for narrowing the time gap between the Policy Address and the Budget, mentioned in the letter dated 2 January 2003 from the Director of Administration (LC Paper No. CROP 24/02-03(01)).

Background

2. At the last meeting held on 6 January 2003, the Committee on Rules of Procedure (CROP) considered the Director's letter in which he advised that the Administration would consider the full implications of the various options for narrowing the time gap between the Policy Address and the Budget. The options include:

- (a) for the Chief Executive (CE) to deliver his Policy Address in January of the year, and for the Budget to be delivered in March of the year;
- (b) for CE to deliver his Policy Address at the beginning of a new LegCo session in early October of the year, and for the Budget to be delivered in January of the following year; and
- (c) taking into account that the term of CE starts in July, for CE to deliver his Policy Address in July of the year, and for the Budget to be delivered in September of the year.

3. The Committee agreed that the Secretariat should provide a paper to set out the implications of the above three options on the operation of LegCo, in the light of past experience.

Relevant legal and procedural provisions

4. Section 9(2) of the Legislative Council Ordinance (Cap. 542), provides that “the CE must publish in the Gazette the dates on which an ordinary session of LegCo is to begin and end.” In other words, the decision on the timing of the commencement and ending of a legislative session rests with CE. Section 10 provides that:

“(1) The CE must specify a date and time for holding the first meeting of each term of office of the LegCo. The CE must give notice of that date and time in the Gazette.

(2) The date and time specified in the notice must be within 14 days after the relevant term of office of the LegCo begins.”

5. Article 64 of the Basic Law (BL) stipulates that the Government of the Hong Kong Special Administrative Region “shall present regular policy addresses to the Council”. Article 73(4) of BL provides that one of the powers and functions of LegCo is to “receive and debate the policy addresses of the CE”. BL is silent on the frequency or timing of the Policy Addresses. Rule 13(1A) of the Rules of Procedure provides that “The Chief Executive shall deliver a Policy Address to the Council, if he so wishes, at the first meeting of a session.”

6. Section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) stipulates that a financial year “means the period from 1 April in any year to 31 March in the immediately succeeding year, both days inclusive”.

Implications of the three options

7. The Secretariat has examined the three possible options for delivering the Policy Address and the Budget, taking into account:

- (a) the commencement and ending of a legislative session and a LegCo term;
- (b) the practice in overseas jurisdictions;
- (c) the financial procedure; and
- (d) the timing of the Administration’s consultations with Members on the Policy Address and the Budget.

Option 1 — Delivery of the Policy Address in January and the Budget in March

8. This arrangement is being adopted in the current legislative session. Our observations on this option are:

- (a) delivering the Policy Address three months after a session has begun in October may pose difficulties for LegCo to plan its work, as it may not have knowledge of CE's policy priorities until the Policy Address has been delivered;
- (b) Members may be deprived of a major topic for debate and discussion at the beginning of a session. Although the Administration had forwarded to LegCo the Government's Legislative Programme at the beginning of this session and indicated that 33 bills would be introduced into the Council, only seven new bills were introduced into the Council before the Policy Address;
- (c) while the consideration of any outstanding bill or other business of the Council in a session may continue in the subsequent session within a LegCo term, this is not possible when a LegCo term lapses. As such, if CE does not deliver his Policy Address at the beginning of the first session in a LegCo term, Members may not have much legislative business to deal with in Council;
- (d) a newly elected CE will not deliver his first Policy Address until half a year after his election;
- (e) this option does not affect the financial procedure since the Budget is delivered in March as before. The Chief Secretary for Administration has stated that the reason for narrowing the time gap between the Policy Address and the Budget is to ensure the speedy implementation of new initiatives announced in the Policy Address that require new funding. However, narrowing the time gap is not the only way for obtaining funding for implementing new policy initiatives. By virtue of section 8 of the Public Finance Ordinance (Cap. 2), changes can be made to the approved estimates of expenditure with the approval of the Finance Committee (FC) upon a proposal of the Financial Secretary (FS). It is technically feasible for the Administration to seek funding approval from FC for implementing new initiatives announced in the Policy Address any time when LegCo is in session. As a matter of fact, from time to time the Administration seeks FC's approval for supplementary provision for implementing existing or new initiatives; and
- (f) it has been the practice of CE and FS to enlist Members' views in the course of drawing up the Policy Address and the Budget. The consultation timetable since the 2000-01 session is in the **Appendix**. In the past, when the Policy Address was delivered in October, CE consulted Members on the Policy Address in September. When the Budget was presented in March, FS usually consulted Members on the expenditure proposals in June and on the revenue proposals towards the last quarter each calendar year.

Changing the timetable of delivering the Policy Address and Budget may change the timing of the Administration's consultation with Members. In the current session, the consultation on the Policy Address took place in November/December; the consultations on the revenue and expenditure proposals for the Budget took place in early November.

Option 2 — Delivery of the Policy Address at the beginning of a new LegCo session in early October of the year and delivery of the Budget in January of the following year

9. This option retains the existing practice of delivering the Policy Address at the beginning of a new LegCo session in early October, and advances the presentation of the Budget from March to January of the following year. Our observations on this option are:

- (a) the announcement of the Government's policy priorities at the commencement of a legislative session will facilitate LegCo in planning its work for the session. It is in tune with the practice adopted locally (which is favoured by most Members, as indicated in a survey conducted in 1998) and in the overseas jurisdictions we have examined, and symbolizes the Executive Authorities' being accountable to the Legislature;
- (b) advancing the timing of the presentation of the Budget and introduction of the Appropriation Bill to January may not necessitate changing the definition of the financial year. Nevertheless, it may be necessary for the Administration to correspondingly advance, by two months, the making of any order under section 2 of the Public Revenue Protection Ordinance (Cap. 120). The purpose of such an order is to give temporary effect to certain revenue proposals announced in the Budget in order to protect the revenue of Hong Kong. It was the Administration's practice in the 2000-01 and 2001-02 sessions to gazette the order made under the Public Revenue Protection Ordinance on the same day the Budget was delivered; and
- (c) the timetable of the Administration's consultations with Members under this option is in the Appendix. CE may keep to the existing timetable of consulting Members in September or earlier before the Policy Address is delivered in early October. As regards the Budget, assuming that there will still be a four-month lead-time between the consultation and delivery as in the current session, FS will have to start consulting Members in September, before the commencement of a legislative session and the delivery of the Policy Address to which the Budget relates.

Option 3 — Taking into account that the term of CE starts in July, delivery of the Policy Address in July of the year and delivery of the Budget in September of the year

10. This option advances the delivery of the Policy Address from October to July and the presentation of the Budget from March to September in the preceding year. Our observations on this option are:

- (a) although a decision on the timing of the ending of a legislative session rests with CE, it has been the practice of LegCo to end a session in mid-July each year, followed by a summer recess not exceeding three months in between. Delivery of the Policy Address in July towards the end of a legislative session may cause oddity in the operation of LegCo. Work on the Council's business towards the end of a session is usually hectic, especially on the bills which need to be concluded. There may not be sufficient time for the Council to debate the Policy Address unless the session is extended or the debate is held after the summer recess, in October at the beginning of the following session;
- (b) this arrangement will be particularly odd between two LegCo terms. The Council will be prorogued shortly after receiving the Policy Address delivered in July towards the end of the last session of a LegCo term. A general election of Members for the new LegCo term will then take place around September. The Policy Address delivered in July will be debated either by the Council which is near the end of its term of office, or by the new Council which did not receive it;
- (c) it may be necessary to change the commencement and ending of a legislative session;
- (d) when explaining the reason for deferring the delivery of the Policy Address to January 2003 in the current session, CS stated in his letter dated 3 July 2002 to the chairman of the House Committee that "the new team of the Principal Officials is just in place. The newly appointed Directors of Bureaux will need time in their new office to review on-going programmes, consult the relevant constituencies and stakeholders, and identify their respective priorities in support of CE's next Policy Address. Taking into account the lead-time required to prepare the actual Address, keeping the existing timetable of delivering the Policy Address at October of the year will not be a realistic or practical option." As the term of office of CE is for five years, there will be a new team of Principal Officials every five years and they may face the same situation described by CS. Therefore, CE may not be able to adhere to the timetable of delivering the Police Address in July at the beginning of a new term of office;

- (e) advancing the delivery of the Budget to September will result in a seven-month gap between the introduction of the Appropriation Bill and the start of the financial year, if the period of a financial year remains unchanged. This will be contrary to the Administration's intention of obtaining funding for the speedy implementation of new initiatives announced in the Policy Address;
- (f) similar to option 2, the making of any order under the Public Revenue Protection Ordinance will have to be advanced to tie in with the early delivery of the Budget. It should also be noted that such an order is a temporary measure. Under section 5(2) of the Public Revenue Protection Ordinance, the order will expire and cease to be in force upon, among other things, "the expiration of 4 months from the day on which the order came into force". If the definition of "financial year" in Cap. 1 remains unchanged, given the seven-month gap between the Budget and the start of the financial year, the order will have expired before any revenue bill or other legislative proposals giving long-term effect to the revenue proposals in the Budget take effect in the new financial year; and
- (g) as regards consultations with Members, allowing the same lead-time between the consultation and delivery of the Policy Address/Budget as before, the consultations on the Policy Address and the Budget will take place in June and May/June respectively. The timetable under this option is in the Appendix.

Advice sought

11. Members are invited to take into account the implications set out above in examining the options being considered by the Administration for narrowing the time gap between the Policy Address and the Budget.

Legislative Council Secretariat

4 March 2003

**The Administration's consultations with Members
on the Policy Address and the Budget**

Session	Date of delivery of Policy Address	Timing of consultation with Members on the Policy Address	Date of delivery of Budget	Timing of consultation with Members on the Budget	
				Expenditure proposals	Revenue proposals
2000-01	11 October 2000	September 2000	7 March 2001	5 June 2000 (at a special briefing of the Finance Committee near the expiry of the first term of the Council)	27 October - 11 November 2000
2001-02	10 October 2001	September 2001	6 March 2002	5 June - 10 July 2001	10 - 21 December 2001
2002-03	8 January 2003	November/December 2002	5 March 2003	1 - 15 November 2002 (both expenditure and revenue proposals)	

**The Administration's consultation with Members
on the Policy Address and the Budget under the three options**

Option	Date of delivery of Policy Address	Timing of consultation with Members on the Policy Address	Date of delivery of Budget	Timing of consultation with Members on both expenditure proposals and revenue proposals
1 (same as the 2002-03 session)	January of the year	November/December in the preceding year	March of the year	Early November in the preceding year
2	Early October of the year	September of the year	January of the following year	September in the preceding year
3	July of the year	June of the year	September of the year	May/June of the year

立法會
Legislative Council

LC Paper No. CROP 55/02-03

Ref: CB(3)/CROP/3

**Paper for the House Committee meeting
on 9 May 2003**

Committee on Rules of Procedure

Future timetable for delivering the Policy Address and Budget

Purpose

This paper reports on the current position of the discussion between the Committee on Rules of Procedure (CRoP) and the Administration on the future timetable for delivering the Policy Address and Budget.

Background

2. The Chief Executive delivered the Policy Address for the current Legislative Council session on 8 January 2003. The delivery of the Budget took place in March as in previous year, on 5 March 2003. In meeting the House Committee on the revised timetable for the current session, the Administration undertook to review the future timetable for delivering the Policy Address and Budget in the light of the experience of the 2003 exercise. CRoP was invited by the House Committee to follow up the matter. At CRoP's meeting held on 7 April 2003, the Administration informed CRoP of the findings of its review.

Conclusions of the Administration's review

3. The conclusions reached by the Administration following its review are as follows:

- (a) the Policy Address and Budget processes are, and should be, closely inter-related. Narrowing the gap between the two improves the co-ordination/interaction between the formulation of programmes/policies and the budget, and facilitates more informed and comprehensive consultations with and discussions in the Legislative Council (LegCo) and the community;

- (b) such close interaction between the Policy Address and budgetary processes is likely to be even more crucial in the coming years of fiscal consolidation. Given that resources will be even scarcer, it is all the more important that programmes/policies are formulated with regard to resources available, and budgets are formulated in a way targeting resources at the society's prevailing priorities;
- (c) the shortened interval at two months between the Policy Address and the Budget in 2003 has enabled more timely reflection of the Policy Address' priorities and policies in the 2003 Budget. Such key priorities announced in the 2003 Policy Address include the three-pronged plan to solve the deficit problem: boost economic growth, cut public expenditure, and raise revenue. These plans are reflected in the 2003-04 Estimates and the Medium Range Forecast up to 2007-08. The Budget also announced specific budgetary initiatives in line with the Policy Address, such as the \$1 billion for grants to match certain donations to universities, a \$200 million initiative to attract investments in the Greater Pearl River Delta and to set up offices in Hong Kong, etc;
- (d) having reviewed possible options to shorten the time gap between the Policy Address and the Budget to two months, the Administration considers that the timetable of delivering the Policy Address in January and the Budget around early March should continue to be adopted in the interim few years; and
- (e) the Administration would keep under review the most appropriate long term arrangements for delivering the Policy Address and Budget.

4. Details of the review are set out in the Administration's paper in **Appendix I**.

CRoP's views

5. Having discussed the Administration's paper on the review, CRoP wishes to report that:

- (a) most CRoP members consider that the Administration has not established a convincing case for narrowing the time gap between the delivery of the Policy Address and the Budget to two months;
- (b) most CRoP members consider that delivering the Policy Address in October is a more suitable arrangement for the operation of LegCo; and

(c) the current definition of “financial year” should remain unchanged, as there is a link between its definition and that of tax assessment year as defined in the Inland Revenue Ordinance. Changing the definition of financial year will have considerable impact on the public at large.

6. CRoP has urged the Administration to take account of its views and reconsider the timeframe for delivering future Policy Addresses.

The current position

7. In his letter of 30 April 2003, the Director of Administrations informs CRoP that the Administration was still considering CRoP’s views and would report back to CRoP once it has completed its further deliberations on the future timetable for delivering the Policy Address.

8. On 2 May 2003, 19 LegCo Members sent a joint letter to the Chief Executive setting out their views on the matter. A copy of the letter is in **Appendix II**. In short, these Members requested the Chief Executive to revert to the previous practice of delivering the Policy Address and Budget in October and March respectively.

Advice sought

9. Members are invited to take note of the current position of the discussion between CRoP and the Administration on the matter.

Legislative Council Secretariat
7 May 2003

COMMITTEE ON RULES OF PROCEDURE

Future Timetable for the Policy Address and Budget

PURPOSE

This paper briefs the Committee on Rules of Procedure (the Rules Committee) on the findings of the Administration's review of the future timetable for the Policy Address and Budget.

BACKGROUND

2. The Chief Executive (CE) delivered his first Policy Address of his second term in January 2003. The timing for the Budget has remained unchanged, i.e. in early March of the year. Taking into account the experiences in 2003, we undertook to conclude a review of the future timetable for the Policy Address and Budget as soon as possible following the completion of the 2003 Policy Address and Budget exercises.

THE REVIEW

3. We have examined whether the new timetable for the Policy Address in 2003, viz. delivering the Policy Address in January, with the Budget timing remain unchanged in March, has –

- (a) satisfactorily met our objective of better aligning the Policy Address and Budget processes; and
- (b) contributed to a better synchronization of work within Government, between Government and LegCo, and between Government and other stakeholders, in terms of the preparation and consultation of the Policy Address and Budget proposals.

4. In considering the longer-term arrangements for the delivery of the Policy Address, we have also examined the pros and cons and the implications of the various options of narrowing the time gap between the Policy Address and the Budget to two months. We have also made references to practices in overseas jurisdictions.

5. Our conclusions following the review are –
- (a) the Policy Address and Budget processes are, and should be, closely inter-related. Narrowing the gap between the two improves the co-ordination/interaction between the formulation of programmes/policies and the budget, and facilitates more informed and comprehensive consultations with and discussions in LegCo and the community;
 - (b) Such close interaction between the Policy Address and budgetary processes is likely to be even more crucial in the coming years of fiscal consolidation. Given that resources will be even scarcer, it is all the more important that programmes/policies are formulated with regard to resources available, and budgets are formulated in a way targeting resources at the society's prevailing priorities;
 - (c) the shortened interval at two months between the Policy Address and the Budget in 2003 has enabled more timely reflection of the Policy Address' priorities and policies in the 2003 Budget. Such key priorities announced in the 2003 Policy Address include the three-pronged plan to solve the deficit problem : boost economic growth, cut public expenditure, and raise revenue. These plans are reflected in the 2003-04 Estimates and the Medium Range Forecast up to 2007-08. The Budget also announced specific budgetary initiatives in line with the Policy Address, such as the \$1 billion for grants to match certain donations to universities, a \$200 million initiative to attract investments in the Greater PRD and to set up offices in Hong Kong, etc; and
 - (d) having reviewed possible options to shorten the time gap between the Policy Address and the Budget to two months, we consider that the timetable of delivering the Policy Address in January and the Budget around early March should continue to be adopted in the interim few years; and

- (e) the Administration would keep under review the most appropriate long term arrangements for delivering the Policy Address and Budget.

6. Our findings in support of the above are set out below.

Review of the timetable of delivering the Policy Address and Budget in 2003

7. The shortened interval at two months between the Policy Address and the Budget in 2003 has enabled more timely reflection of the Policy Address' priorities and policies in the 2003 Budget. Such key priorities announced in the 2003 Policy Address include the three-pronged plan to solve the deficit problem: plans for reviving the economy, for appropriate revenue measures, and for concrete targets and measures for cutting expenditure. These plans are reflected in the 2003-04 Estimates and the Medium Range Forecast (MRF) up to 2007-08. The Budget also announced specific budgetary initiatives in line with the Policy Address, such as the \$1 billion for grants to match certain donations to universities, a \$200 million initiative to attract investments in the Greater PRD and to set up offices in Hong Kong, etc.

8. This shorter time gap at two months has also enhanced the overall efficiency of the Government machinery, in formulating and implementing policy initiatives on the one hand, while allowing sufficient time for the preparation and consultation of the relevant proposals with stakeholders, including LegCo Members, on the other.

9. Looking to overseas experiences, we note from the research report compiled by the LegCo Secretariat that the shortened time gap between the Policy Address and Budget at two months is broadly in line with practices in other overseas jurisdictions, including Australia, the United States and New Jersey, which all have an interval of one to three months¹ between the equivalents of their Policy Address and Budget.

¹ Although the Queen's Speech in the United Kingdom is delivered at the beginning of each legislative session, its focus is on the Administration's legislative priorities ahead. In view of this major difference in content, it would not be meaningful to compare its timing of delivery with that of the Policy Address in Hong Kong.

10. Taking into account the above considerations, we have come to the view that a shortened interval between the delivery of the Policy Address and the Budget at around two months is about right.

Future timetable of delivering Policy Address and Budget

11. In light of the above analysis, we have considered the following three possible options on delivering the Policy Address and Budget in future. They all involve a gap of roughly two months between the delivery of the Policy Address and the Budget –

- (a) For the CE to deliver his Policy Address in early October, and for the Budget to be delivered in December, with or without changing the current definition of Government's financial year;
- (b) For the CE to deliver his Policy Address in early July, and for the Budget to be delivered in September, with or without changing the current definition of Government's financial year; and
- (c) For the CE to deliver his Policy Address at the beginning of the calendar year in early January, and for the Budget to be delivered in March of the year.

Option (a) : Delivery of Policy Address in October and Budget in December

12. This option involves a reversion to the pre-2003 practice of delivering the Policy Address in October and bringing forward the Budget Day to December.

Pros

- If the CE delivers his Policy Address at the commencement of a legislative session, it sets the scene and provides focus for LegCo activities for the rest of the session. This is of particular relevance upon the commencement of a new LegCo term.
- The timetable is an established constitutional convention in Hong Kong.

Cons

- This option may give rise to an unwieldy situation when a LegCo term lapses. Under this scenario, the Administration will be consulting the old term LegCo on the Policy Address and the Budget proposals, while it will be the LegCo in the new term which receives and debates the Policy Address and the Budget.
- If the Budget were presented in December, it would be problematic to keep the current definition of the Government's financial year. For one thing, if the financial year starts on 1 April and the Budget is presented in December, one main problem is that the Budget would have to be formulated with expenditure/revenue data up to around end-October, or seven months' data. The expenditure/revenue data around the end of the calendar year is crucial for budgetary purposes. This is because under our expenditure control and revenue collection systems, on a pro rata basis, more government expenditure is incurred, and more revenue is collected, in the last several months of a financial year. Preparing the Budget without taking into account this data would make the revised estimates for the year, estimates for the next year and the MRF even less reliable. It would also not be conducive to public discussion of the Budget if economic and fiscal data available for discussion is so limited.
- If we change the financial year so that it starts on 1 January, we would need to change the definition of financial year in Cap 1, and make careful preparations for the change to minimise the initial confusion. We would also need to consider if we should also change the tax assessment year, which is currently defined in the Inland Revenue Ordinance as "the period of 12 months commencing on 1 April in any year". Whether we change the assessment year so that it also starts on 1 January, there could be impact on taxpayers

and the operation of the IRD. We would need to think through such impact carefully.

- Any option involving the change of the financial year should not be implemented during the 2003-04 financial year, given that we have already submitted the 2003-04 Budget to LegCo. Such options therefore cannot be implemented for the next Policy Address/2004 Budget.

Taking into account possible need for legislative amendments, we consider that this is not a feasible option to be pursued in the short and medium term.

Option (b) : Delivery of Policy Address in early July and Budget in September

13. Under this option, the CE will deliver his Policy Address upon his assumption of office and in early July every year thereafter.

Pros

- If the CE delivers the Policy Address in early July upon his assumption of office, it would set the policy direction of the HKSARG over a timeframe that tallies with the term of office of the head of its government.
- The timing will be of particular relevance upon the commencement of the term of a new CE, when there is public expectation for the CE to account openly as soon as practicable his aspirations and policy direction for the rest of his term.

Cons

- Moving the Policy Address to July will pose major disruptions to the annual programme and work plan of LegCo. To accommodate this, there is a need to defer the summer recess to the latter part of July to allow the Policy Address debate to run its course. It may also involve changing the commencement and ending of a legislative session (currently fixed at October of a year

to mid July of the following year), in order to enable LegCo to receive the Policy Address and Budget in July and September of the year, and to enact the Appropriation Bill in mid-October.

- Article 69 of the Basic Law stipulates that the term of office of LegCo shall be four years. The current LegCo term should normally end on 30 September in 2004. Therefore, in so far as the third term LegCo (2004 – 2008) is concerned, it would be constitutionally problematic to either cut short the second LegCo term or advance the start of the third LegCo term to commence in July 2004.
- Without changing the commencement date of LegCo's term of office, the implementation of this option may cause abnormalities in LegCo's operation. A general election will take place every four years in about mid-September. To enable such a general election to be held, LegCo's operation will normally be terminated for six to seven weeks for nomination and electioneering. Thus, it may not be practicable for LegCo to consider the Budget in September during the election year.
- If the consideration of the Budget is deferred until October when the new Legislature commences operation, a rather unwieldy situation may arise with the old term LegCo debating the Policy Address, whilst it is the LegCo in the new term which considers the Budget and enacts the Appropriation Bill.
- If the Budget is presented in September, it would be difficult to keep the current definition of the Government's financial year. For one thing, if the financial year starts on 1 April and the Budget is presented in September, we would have to prepare our revised expenditure and revenue estimates for the year, draft estimates for the next year and the MRF on the basis of three or at most four months' economic/expenditure/revenue data. Such data would not provide a reliable basis to formulate the budget and would not

be conducive to public consultation on the various proposals.

- Again, if we were to change the financial year so that it starts on 1 January, the implications as discussed under option (a) above will apply.
- Any option involving the change of the financial year should not be implemented during the 2003-04 financial year, given that we have already submitted the 2003-04 Budget to LegCo. Such options therefore cannot be implemented for the next Policy Address/2004 Budget.

On balance, taking into account possible Basic Law implications, and the need for legislative amendments, we do not consider this a feasible option for the short and immediate term.

Option (c) : Delivery of Policy Address in January and Budget in March

14. This is the timetable for the 2003 exercise.

Pros

- The 2003 experiences have proven that this timetable has enhanced the overall efficiency of Government in formulating and implementing policy initiatives while allowing sufficient time for consultation on proposals in the Policy Address and Budget.
- This is also the simplest option among the three and it can be readily implemented.

Cons

- There will be a null period of LegCo activities between the start of a session in October, and the time when the Policy Address is delivered, posing difficulties for LegCo to plan its work.

- The null period will pose an even greater problem to LegCo when a LegCo term lapses. Unlike the scenarios within a LegCo term under which LegCo may consider outstanding bills or other business during the null period, LegCo Members may not have much business to deal with at the beginning of the first legislative session of a new term.

15. In the absence of a viable alternative which will narrow the time gap between the Policy Address and the Budget in the short and medium term, we consider that we should continue with the 2003 timetable (i.e. option (c)) as an interim measure for the coming few years. To address a possible null period at the start of a new LegCo term, the Administration can plan ahead and ensure that a sufficient number of new legislative proposals would be introduced into LegCo at the beginning of the term.

16. In tandem, the Administration will also keep under review the most appropriate long-term arrangements for delivering the Policy Address and the Budget.

OTHER OPTIONS

17. We have also considered the pros and cons of reverting to the pre-2003 timetable i.e. delivering the Policy Address in October, and the Budget in March the following year – an option in fact preferred by some LegCo Members. We do not favour this option since the 5-month gap between the two exercises would not enable the Administration to implement as soon as practicable the policy initiatives announced in the Policy Address with funding implications. The experiences in 2003 have borne out that a time gap of two months between the two exercises is just about right, and this should be the target timeframe we seek to achieve. We would not therefore recommend reversion to the previous timetable.

Administration Wing
Chief Secretary for Administration's Office
March 2003

14 May 2003

The Honourable Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Chairman of the House Committee
Legislative Council
8 Jackson Road
Central
Hong Kong

**Future Timetable for the Delivery of
the Policy Address and Budget**

At the meeting of the House Committee on 9 May 2003, Members considered the report of the Committee on Rules of Procedure (Rules Committee) on the progress of its discussion with the Administration on the future timetable for the delivery of the Policy Address and Budget. You kindly told me at our regular meeting held on 12 May the views and concerns expressed by Members at that meeting.

I have thoroughly discussed Members' concerns with the Chief Executive. At our meeting held on 12 May, I conveyed to you the Administration's response. To facilitate your briefing the House Committee and the Rules Committee on the matter, I set out below the Administration's position -

The Chief Executive considers that the Policy Address (together with the Policy Agenda published at the same time) and the Budget should be coherent and closely inter-related. The priorities and policies announced in the Policy Address and the Policy Agenda should be reflected in the Annual Budget as soon as possible. Based on our experience in 2003, we believe that delivery of the Policy Address and that of the Budget should not be separated by more than about two months. This arrangement enables us to reflect promptly in the Budget

the priorities and policies pledged in the Policy Address and Policy Agenda, thereby enhancing the overall efficiency of policy formulation and implementation.

As we have pointed out in our paper to the Rules Committee, if we were to change the Budget timing, not only would this undermine the precision of our revenue estimates as well as leading to other practical problems, we would have to amend the definitions of “financial year” and “assessment year” in our law. The ramifications would be enormous. Taking the above into account, we do not intend, at the present stage, to change the fiscal year or the current arrangement to deliver the Budget in February/March every year. It follows that delivering the Policy Address in January is the only viable option in the short to medium term, if we were to confine the time gap between the Policy Address and the Budget to about two months. In the longer term, subject to Members’ agreement, and on the condition that this time gap between the delivery of the Policy Address and that of the Budget will be no more than about two months, we shall be willing to consider advancing the Budget timing in order that the Chief Executive may revert to the previous practice of delivering the Policy Address in October.

We appreciate that some Members are concerned about a possible null period that might arise before January if we were to adopt the 2003 timetable in the coming few years (i.e. to deliver the Policy Address in January and Budget in March). To address this concern, we propose that the Chief Secretary for Administration submits the Administration’s proposed Legislative Programme at the first sitting of future legislative sessions, setting out a tentative list of government bills to be introduced, so that Members may plan their work accordingly. The Administration would also aim to introduce government bills into LegCo for Members’ scrutiny as early as possible.

It is the Chief Executive’s constitutional obligation under the Basic Law to present regular Policy Addresses to LegCo. The Chief Executive wishes to retain some flexibility as to the timing for delivering his Policy Addresses. He needs to take into account actual circumstances and practical needs at the time. We believe that, on balance, the 2003 timetable represents the best arrangement and should be adopted for the coming few years.

I have copied this letter to the Chairman of the Rules Committee so as to keep him informed. I stand ready to re-capitulate the Administration's position on this matter at my next regular meeting with the House Committee.

(Donald Tsang)
Chief Secretary for Administration

c.c. The Honourable Jasper Tsang, GBS, JP
Chairman, Committee on Rules of Procedure