

立法會
Legislative Council

LC Paper No. CB(2)2694/04-05
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 18 July 2005 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Dr Hon LUI Ming-wah, SBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LEE Wing-tat
Hon LI Kwok-ying, MH
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP

Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
Hon TAM Heung-man

Members absent : Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon WONG Yung-kan, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Kwok-hing, MH
Hon MA Lik, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHIM Pui-chung
Hon KWONG Chi-kin

Public officers attending : Items I and II

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement MAK Ching-hung
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Ms Doris HO Pui-ling
Principal Assistant Secretary for Constitutional Affairs

Items III – V

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement MAK Ching-hung
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Ms Fonny LO
Legislative Assistant (2)3

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I. Information papers issued since the last meeting

Members noted that the following papers had been issued since the last meeting –

- (a) LC Paper No. CB(2)2196/04-05 – Proposed terms of reference of the Subcommittee on Application of Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive;
- (b) IN32/04-05 – Supplementary Information prepared by the Research and Library Services Division on the Regulatory Framework of Political Parties in Germany, The United Kingdom, New Zealand and Singapore: Historical Development of Political Parties;
- (c) IN33/04-05 – Supplementary Information prepared by the Research and Library Services Division on the Regulatory Framework of Political Parties in Germany, the United Kingdom, New Zealand and Singapore: Non-Financial Assistance to

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Political Parties and voluntary Registration System of Political Parties;

- (d) LC Paper No. CB(2)2318/04-05(01) – Letter from the Secretariat to the Administration setting out the issues raised by members on remuneration and post-office arrangements for the Chief Executive; and
- (e) LC Paper No. CB(2)2318/04-05(02) – Paper provided by the Administration on Remuneration and Post-office Arrangements for the Chief Executive.

2. Secretary for Constitutional Affairs (SCA) said that the paper on “Remuneration and Post-office Arrangements for the Chief Executive (CE)” (LC Paper No. CB(2)2318/04-05(02)) was prepared in response to the issues raised by members at the last meeting. At that meeting, the Administration advised members that the recommendations of the Independent Commission on the Remuneration Package and Post-office Arrangements for the Chief Executive of the Hong Kong Special Administrative Region (HKSAR) (the Independent Commission) had been accepted by the Administration as the basis for determining the remuneration package for CE, post-office restrictions on former CEs, and post-office services for former CEs.

3. SCA supplemented that the Administration would seek approval from the Finance Committee (FC) on the new remuneration package to be implemented for the third term CE in July 2007 upon the commencement of the new Legislative Council (LegCo) session. The opportunity would also be taken to inform FC of the financial implications of setting up an office to provide support services to former CEs. Meanwhile, the Administration would prepare for the establishment of the office for former CEs during the summer.

4. Ms Emily LAU said that the implementation of the proposal to provide post-office services to a former CE should be subject to the approval of LegCo. The Administration should inform the Panel of the cost and implementation details of the proposal before proceeding further. Ms LAU pointed out that at the last meeting, some members held the view that some services should only be provided to a former CE on a need basis. As the paper provided by the Administration to respond to members’ views was not scheduled for discussion at this meeting, she suggested that the item should be discussed by the Panel before the Administration made a submission to FC.

5. SCA said that the additional recurrent expenditure for provision of an office and administrative support for former CEs was estimated to be about \$2 million per year. Any expenses incurred in 2005-06 would be met from within existing resources. For 2006-07 and thereafter, recurrent provision would be included in the annual estimates. Therefore, funding approval from FC on the

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setting up of an office for former CEs was not required. Addressing Ms LAU's concern, SCA undertook to provide the relevant details to the Panel in a paper prior to making a submission to FC for the purpose of inviting FC to note the financial commitments. He also suggested that members who had further questions to raise with the Administration on the subject could do so through the LegCo Secretariat.

II. The term "important bill" referred to in Article 50 of the Basic Law
(LC Paper No. CB(2)2255/04-05(01) – Background brief prepared by LegCo Secretariat on "The term "important bill" referred to in Article 50 of the Basic Law")

LC Paper No. CB(2)2255/04-05(02) – Paper provided by the Administration on "Article 50 of the Basic Law")

6. SCA briefed members on the Government's position on the scope covered by the term "important bill" in Article 50 of the Basic Law (BL 50) as set out in the Administration's paper.

Who and how to determine whether a bill was "important"

7. Mr LEE Wing-tat said that paragraph 10 of the Administration's paper which summarised its position on who and how to determine whether a bill was "important" was non-conclusive. He asked whether the conclusion drawn in paragraph 10 was a result of the discussion between the Administration and the Central Authorities. He also asked whether there were any exchange of views and correspondences/papers between the two sides.

8. SCA said that CE had the constitutional obligation of implementing the Basic Law. In the absence of any further elaboration in BL 50 on the meaning of "important bill", it was a matter for CE to decide whether a particular bill was important. In practical terms, factors that had to be taken into consideration to determine whether a bill was an "important bill" would vary from case to case. In determining whether a bill was an "important bill", it was expected that CE would consider the circumstances of each case and the overall interests of Hong Kong. SCA further said that the above views were formed by the Administration after consulting the Department of Justice which had conducted a careful study on the issue. The Administration had kept the Central Authorities informed of the progress and the result of the study. The Central Authorities agreed to the views formed by the Administration in relation to BL 50. SCA added that in accordance with past practice, the Administration would not divulge details on the communication between the HKSAR Government and the Central Authorities.

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9. Mr Albert HO asked about the basis of the Administration's view that it was for CE, and not other authorities such as LegCo and the court, to decide whether a particular bill was important. He had reservation about this view. He also asked whether CE who was serving the remainder of the term of the preceding CE could dissolve LegCo if it refused to pass an "important bill".

10. SCA explained that CE, as the head of the Government of HKSAR, had to lead the Government to exercise its functions, one of which was to introduce bills for scrutiny and passage by LegCo. Based on this understanding and in the absence of any further elaboration in BL 50 on the meaning of "important bill", the Administration concluded that it was a matter for CE to determine whether a particular bill was an "important bill".

11. SCA further said that the meaning of the "term of office" of CE referred to in BL 46 and BL 50 required further study by the Administration. BL 50 provided that CE could dissolve LegCo only once in each term of his office. As the former CE, Mr TUNG Chee-hwa had not invoked BL 50 in his second term of office, there was in any case no restriction for the new CE, who was to serve the remainder of the second term of office, to exercise his power to dissolve LegCo if it refused to pass an "important bill". However, CE would not invoke BL 50 lightly, as this might result in his having to resign from office eventually.

When to determine whether a bill is important

12. Mr LAU Kong-wah pointed out that it would be unfair to LegCo if it was not informed in advance whether a bill introduced into LegCo was an "important bill", given that the refusal of LegCo to pass such a bill could lead to its dissolution. In addition, whether the bill was an important one could be one of the considerations for Members to decide whether to pass the bill. Mr LAU asked whether the Executive Council (ExCo) would know in advance whether a bill to be introduced into LegCo was an "important bill".

13. Mr Albert HO said that although some people might consider that labelling a bill as "important" in advance would be perceived as a threat imposed on LegCo to pass a bill, he preferred such an arrangement because Members should know from the very beginning the rule of the game. He said that in some countries, the nature of a bill or resolution would be declared by the Government in advance, as the passage of which could be considered as a vote of confidence on the Government.

14. SCA said that any major decision of the Government of HKSAR was made in consultation with ExCo. If CE considered that a bill was so "important" that BL 50 might be invoked, it was expected that CE would consult ExCo. If CE determined that a bill was an "important bill", or that a bill had become an "important bill" after certain clauses had been amended, LegCo would be advised of the Administration's position in the first instance.

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Procedures and parties involved in consultations under BL 50

15. Dr Fernando CHEUNG asked about the mechanism for conducting consultations in order to reach consensus under BL 50. SCA explained that BL 50 contained no provision on the procedures and parties to be involved in the process of “consultations” in order to reach consensus. The purpose of consultations was to provide an opportunity for the executive and legislative authorities to resolve a grave constitutional impasse by reaching a consensus. It was envisaged that, depending on the actual need and circumstances pertaining, both sides would consider using all possible communication channels for the purpose. This might include the relevant bills committee which involved Members and Government officials.

16. SCA further pointed out that there were safeguards against arbitrary use of the power to dissolve LegCo as demonstrated by the following –

- (a) BL 50 could be resorted to only once in each term of office of CE;
- (b) BL 50 required CE to seek consensus after consultations before taking the decision to dissolve LegCo;
- (c) BL 50 also required CE to consult ExCo before taking the decision to dissolve LegCo; and
- (d) the dissolution of LegCo might eventually lead to the resignation of CE under BL52.

Whether amendments to Annexes I and II would be classified as an “important bill”

17. Ms Audrey EU said that if there was a need to amend the methods for selecting CE and forming LegCo (the “electoral methods”) after 2007, amendments would be made to Annexes I and II to the Basic Law respectively. Such amendments must be made with the endorsement of a two-thirds majority of all LegCo Members and the consent of CE and be reported to the Standing Committee of the National People’s Congress (NPCSC) for approval. Ms EU sought clarification on the following –

- (a) whether the term “法案 (bill)” in BL 50 referred to a bill or other legislative instruments such as a resolution;
- (b) whether amendments to Annexes I and II to the Basic Law would be introduced in the form of a bill or a resolution;
- (c) whether the legislative proposal to amend the “electoral methods”, if introduced in the form of a bill, would be classified as an “important bill”; and

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- (d) whether the legislative proposal to amend local electoral laws to prescribe the detailed arrangements for the revised “electoral methods” would be introduced into LegCo in the form of a bill.

18. SCA responded with the following comments –

- (a) the term “法案 (bill)” referred to in BL 50 covered ordinary bills introduced by the Government and such bills as amended by Committee Stage amendments;
- (b) the interpretation promulgated by NPCSC on 6 April 2004 had stated that bills (法案) on the amendments to the “electoral methods” should be introduced by the Government of HKSAR to LegCo. However, these bills would have to be passed by a two-thirds majority of the LegCo Members, receive the consent of the CE and be endorsed by the Central Authorities. The amendments to Annexes I and II to the Basic Law might be introduced in the form of a special bill, but the Administration would advise Members after consultation with the Department of Justice;
- (c) the mainstream proposal for the “electoral methods” had yet to be formulated. After such a proposal had been formulated, it would be for CE to determine whether the bill concerned was an “important bill”. However, SCA considered that BL 50 would not be invoked lightly. The Administration would endeavour to gain the support of Members on the mainstream proposal and would not lightly take a decision to classify the bill concerned as an “important bill”; and
- (d) the legislative proposal to amend local electoral laws to prescribe the detailed arrangements for the revised “electoral methods” would be introduced into LegCo in the form of an amendment bill.

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Way forward

19. The Chairman said that the issue of “important bill” referred to in BL 50 had been discussed by the Panel on several occasions and the position of the Administration was very clear. He sought members’ views on the way forward.

20. Ms Audrey EU said that the Panel had reached no conclusion on the item. Some members did not agree that CE should be the authority to determine whether a bill was “important”. Some members had requested the Administration to inform LegCo in advance if a bill was determined by CE as an “important bill”. However, SCA had not made any commitment in this respect. She suggested and members agreed that the item should remain on the list of

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outstanding items of the Panel and should be further discussed by the Panel in future if considered necessary.

III. Constitutional issues relating to prorogation of the Council

(LC Paper No. CB(2)1477/04-05(01) – Written submission from Professor Yash GHAI, Sir YK Pao Professor of Public Law, The University of Hong Kong on "Issues relating to the prorogation of the Legislative Council"

LC Paper No. CB(2)1477/04-05(02) – Written submission from The Hong Kong Bar Association on "Issues relating to the prorogation of the Legislative Council"

LC Paper No. CB(2)2255/04-05(03) – Background brief prepared by LegCo Secretariat on "Constitutional issues relating to the prorogation of the Council"

LC Paper No. CB(2)2255/04-05(04) – Paper provided by the Administration on "Prorogation")

21. SCA highlighted the response of the Administration to the submissions on constitutional issues relating to the prorogation of the Council from Professor Yash GHAI and the Hong Kong Bar Association respectively. SCA advised that having considered the two submissions, the Administration maintained its view that the existing arrangements were consistent with the Basic Law and saw no reason to alter the position on the various issues.

22. SCA added that when the issue was discussed at the last meeting on 21 February 2005, members had asked the Administration to provide information on previous consideration and discussions between the Administration and LegCo on the proposed arrangements for CE to prorogue the Council and to determine the commencement and end dates of a LegCo session. The Administration had looked into past records which showed that Members had not raised any concerns on the relevant issues when the Legislative Council Bill was scrutinised by LegCo in 1997.

23. Mr Albert HO said that the lack of concern over the issues relating to the prorogation of the Council was because the Legislative Council Bill was scrutinised and passed by the Provisional Legislative Council which was not comprised of directly elected Members. He held the view that the Administration should respect the power of LegCo to make laws and transact Council business on its own. While he was not concerned about abuse of power of CE, he considered that from the constitutional point of view, there was no reason for CE not to transfer to the President of LegCo the power to prorogue the Council, determine the commencement and end dates of a LegCo session, and to convene emergency Council meetings during prorogation. He sought the view of

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the Administration on the introduction of a Private Member's Bill in this regard.

24. SCA said that since the Legislative Council Bill was passed in 1997, Members had not raised concerns on issues relating to the prorogation of the Council until recently. SCA added that under the present arrangements, it was for CE to determine the commencement and end dates of a LegCo session, the President to decide on the time of meetings, CE to call emergency meetings during prorogation, the President to call special session during recess, and CE to determine the date of prorogation in consultation with LegCo. The arrangements reflected that the executive and legislative authorities should cooperate with one another while keeping each other in check. As regards the introduction of a Private Member's Bill, SCA reiterated that the existing arrangements were appropriate and should remain unchanged.

25. Mr LEUNG Kwok-hung said that compliance with the Basic Law did not imply that the arrangements were fair and just. He said that unless LegCo had the power to veto the decisions of CE, there was no real checks and balances between the executive and the legislative authorities.

26. SCA responded that Hong Kong was a fair and open society. Any Government officials or LegCo Members who abused their power would be subject to public censure. He did not believe that the power to determine the prorogation, commencement and end dates of the Council could be abused to achieve an unlawful course. He pointed out that any legislative and financial proposals introduced by the executive authority were subject to the scrutiny and approval of LegCo. He disagreed that there was no checks and balances between the executive and the legislative authorities.

27. The Chairman suggested and members agreed that as the item was referred to the Panel by the House Committee, a report should be made to the House Committee. Ms Audrey EU suggested that the response of the Administration to the two submissions should be forwarded to Professor Yash GHAI and the Hong Kong Bar Association respectively for their further comments, if any. Members agreed.

(Post-meeting note : Letters were sent to Professor Yash GHAI and the Hong Kong Bar Association on 19 July 2005 attaching the Administration's response. In its response dated 23 September 2005 (LC Paper No. CB(2)2628/04-05(01) issued on 26 September 2005), the Hong Kong Bar Association clarified its view in paragraph 46 of its submission and disagreed with the assertions in paragraph 15 of the Administration's paper. The submission from the Law Society of Hong Kong and the Administration's response were issued to members vide LC Paper Nos. CB(2)2558/04-05(01) and 2615/04-05(01) on 9 and 20 September 2005 respectively.)

IV. Restructuring of the Executive Council

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(LC Paper No. CB(2)2255/04-05(05) – Draft Hansard of the oral question on "Reform of Executive Council" raised by Hon Martin LEE at the Council meeting on 29 June 2005

FS16/04-05 – Fact sheets on newspaper reports prepared by the Research and Library Services Division)

28. In response to some members' comments that the Administration had not provided papers for this and the next agenda items, SCA explained that at the last meeting, he had advised members that CE was expected to elaborate on his ideas on the proposals mentioned in his election campaign in the Policy Address to be delivered on 12 October 2005, and the Administration was not in a position to provide papers for Panel's discussion prior to that date. As the Panel had decided that it would have an internal discussion on the relevant issues, the Administration had agreed to listen to members' views. SCA added that although no papers had been provided by the Administration for the meeting, members could make reference to the Administration's replies to questions raised by Members on the relevant subjects at recent Council meetings, which had been made available to members by the LegCo Secretariat.

29. Mr James TIEN said that BL 54 provided that ExCo should assist CE in policy-making. He asked whether ExCo was an advisory organ or had substantive power, and whether LegCo Members who were appointed as ExCo Members were required to promote Government policies. He also enquired about the differences between the operation of the existing ExCo and the one before the handover, and the functions of ExCo vis-à-vis that of the Commission on Strategic Development.

30. SCA said that ExCo would remain as an organ for assisting CE in policy-making. Under BL 56, CE should consult ExCo before making important policy decisions. In practice, even though a policy decision was made by CE after consulting ExCo, the policy could not be implemented without the support of LegCo. In this connection, CE had, since 2002, appointed LegCo Members with political party affiliation as ExCo Members, with a view to strengthening the linkage between the Government and LegCo. As regards the respective roles of ExCo and the Commission on Strategic Development, SCA explained that the former assist CE in policy-making, while the latter helped the Administration gauge views from different sectors of the community for the purpose of developing strategies for various policies.

31. Ms Audrey EU said that CE had, during his election campaign, mentioned a range of reform proposals including the creation of posts of Deputy Principal Officials (POs) and Assistants for POs, restructuring of ExCo and the Commission on Strategic Development. CE had also mentioned that he would develop democracy in Hong Kong style to improve governance. The information so far available on these proposals were scattered and mainly reports by the press.

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It would not be meaningful for the Panel to give comments on the basis of press reports. She also considered it inappropriate for CE to announce the details of the proposals in the Policy Address before consultation with LegCo.

32. SCA said that what CE had said during his election campaign would serve as a starting point for public discussion. CE would invite political parties and Members to give views on the various issues before preparing the Policy Address. Ms Audrey EU and Mr Albert HO responded that the meetings between CE and Members were held behind closed doors and could not take the place of a Panel meeting which was open to public. Ms EU maintained the view that the Administration should provide details of the proposals to facilitate members' discussion.

33. Dr Fernando CHEUNG said that it was a reasonable expectation of the Panel that the Administration should provide details of the proposal of restructuring of ExCo to facilitate members to initiate discussion, to gather views from the community and to give specific responses. He pointed out that by the time CE had announced details of the proposal in the Policy Address, it might be too late for LegCo to follow up.

34. Dr KWOK Ka-ki asked how ExCo would be restructured to ensure that its decisions would be more representative, more compact and more acceptable to the public at large. He also sought clarification whether POs would no longer sit on ExCo.

35. Mr Albert HO asked whether the proposal was still in the conceptual stage since the CE election. He also asked whether the proposal announced by CE in the Policy Address would be put into implementation immediately, or whether there was scope for further discussion by LegCo. Ms Emily LAU said that if the proposal would be implemented following the Policy Address without prior consultation with LegCo, it would strain the relationship between LegCo and ExCo.

36. SCA said that under BL 55, CE could appoint three categories of persons, namely POs, LegCo Members and public figures as ExCo Members. On the whole, CE would like to invite more talents from different social background to join ExCo to participate in the policy-making process at the highest level. This would enable the Government to collect widely the views of the community, enhancing its quality of governance and ensuring that policies had broad-based support of the various sectors of the community. SCA further said that CE would elaborate on the idea of the restructuring of ExCo in the Policy Address. However, Members were welcomed to give views on the proposal to the Administration or CE's Office between now and October.

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37. SCA clarified that POs would remain as Members of ExCo, although they would not be required to attend ExCo meetings when issues not relating to their policy portfolios were discussed.

38. Ms Emily LAU pointed out that with the implementation of the accountability system, POs were appointed to ExCo. She questioned whether the objectives for appointing POs to ExCo would be defeated if they were no longer required to attend all the meetings of ExCo. She further said that for ExCo to appreciate the aspirations and the needs of the community, its members should either be returned by direct election or had political party background which had the support of the people. She did not think that ExCo Members who were drawn from the academia, the banking and business sectors could represent the community at large.

39. SCA reiterated that it was CE's prerogative to decide on the appointment of ExCo Members under BL 55. Having a wider pool of political talents to serve in ExCo would promote effective governance by the Government.

40. The Chairman said that restructuring of ExCo was an important issue. He requested the Administration to take into account members' views expressed at the meeting in considering the issue.

V. Creation of junior political positions in the Administration

(LC Paper No. CB(2)2255/04-05(06) – Written question on "Measures to groom political talents" raised by Hon Emily LAU Wai-hing at the Council meeting on 8 June 2005

LC Paper No. CB(2)2255/04-05(07) – Oral question on "Proposal to recruit people with political aspirations to serve as administrative assistants to policy secretaries" raised by Hon SIN Chung-kai at the Council meeting on 6 July 2005

FS17/04-05 – Fact sheets on newspaper reports prepared by the Research and Library Services Division)

41. SCA briefed members on the various stages of the envisaged political career path for publicly spirited individuals outlined by CE during his election campaign, and set out in the Administration's reply to the oral question raised by Hon SIN Chung-kai at the Council meeting on 6 July 2005.

42. Ms Emily LAU said that as the proposal of creation of junior political positions involved the use of public money, the Administration should proceed with great caution and should only implement the proposal after thorough deliberation. Ms LAU further said that if the purpose of grooming political talents was to assist political party development so that political parties could eventually become the ruling party, the positions created should be at the highest

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level of POs. However, the proposal put forth by CE was that initially, individuals with political aspirations from the civil service, political and business sectors could assume government positions at the middle ranking level such as Assistants to Directors of Bureau. If such positions were filled by persons from a particular political party, there were comments that this was a political deal between the Administration and political party concerned, and the arrangement would not facilitate the Administration to obtain support from LegCo Members who were not affiliated with this particular political party. Ms LAU asked whether civil servants appointed to such positions were required to be politically neutral or otherwise.

43. SCA said that the Administration was exploring different means to groom political talents, including recruiting people with political aspirations to serve as Assistants to Directors of Bureau, inviting talents of the community to join ExCo, increasing the number of seats for the fourth term LegCo, and expanding the membership of the Commission on Strategic Development and ExCo, etc. It was the intention of the Administration to invite political talents to join the Government from the middle to the highest level. SCA clarified that when a person took up a political position, he would no longer be politically neutral irrespective of whether he was coming from the civil service. The present thinking was that a former civil servant should not be allowed to resume his previous position in the civil service once he was politically appointed (i.e. there would not be any “revolving door”).

44. Ms Emily LAU asked about the number of positions and the respective ranking to be created under the proposal. She stressed that irrespective of whether funding approval was required from the Finance Committee for creation of the political positions, the Administration should consult and obtain the support of LegCo on the proposal before implementation. She added that many Members had reservation about the proposal.

45. SCA said that the thinking outlined by CE was preliminary and required further study within the Administration. CE would elaborate on the proposal in the Policy Address. SCA assured members that the Administration would consult and enlist support from LegCo if the proposal was put into implementation. He believed that the proposal was conducive to constitutional development and political party development.

46. Ms Audrey EU asked that if posts of Deputy POs were created, whether the Administration would appoint persons with political party background to fill these positions and if so, whether it was the intention of the Administration to form a ruling party. If the positions would be taken up by persons with different political party affiliations, she asked how the Administration could ensure that the political appointees would work as a team. Ms Emily LAU asked whether only persons from pro-Government political parties would be considered for these positions.

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47. SCA responded that Hong Kong did not have a ruling party. The Administration would not tailor-make positions for any political party. A person with political party background who decided to take up a political appointment should concur with the policy agenda and policy direction of the Government. Grooming of political talents was to enhance the quality of governance, and political positions would only be created on a need basis.

48. The meeting ended at 4:50 pm.

Council Business Division 2
Legislative Council Secretariat
6 October 2005