

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2191/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/PS/1

**Panel on Public Service**

**Minutes of meeting**  
**held on Monday, 20 June 2005 at 10:45 am**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Hon LI Fung-ying, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon Bernard CHAN, JP  
Hon WONG Kwok-hing, MH  
Hon KWONG Chi-kin

**Member attending** : Hon LEUNG Kwok-hung

**Members absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon Howard YOUNG, SBS, JP

**Public officers attending** : **Agenda Items III and IV**

Mr Joseph W P WONG, GBS, JP  
Secretary for the Civil Service

Mrs Rebecca LAI, JP  
Permanent Secretary for the Civil Service

**Agenda Item III**

Mr K S SO

Deputy Secretary for the Civil Service (2)

**Agenda Item IV**

Mr Christopher WONG

Deputy Secretary for the Civil Service (3)

**Clerk in attendance :** Miss Salumi CHAN  
Chief Council Secretary (1)5

**Staff in attendance :** Ms Rosalind MA  
Senior Council Secretary (1)8

Ms Guy YIP  
Council Secretary (1)1

Miss Christy YAU  
Legislative Assistant (Acting)

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Action

**I. Confirmation of minutes of meeting**

(LC Paper No. CB(1)1768/04-05 — Minutes of meeting on 20 May 2005

LC Paper No. CB(1)1769/04-05(01) — List of outstanding items for discussion

LC Paper No. CB(1)1769/04-05(02) — List of follow-up actions)

The minutes of the meeting held on 20 May 2005 were confirmed.

Other issue

2. The Chairman referred members to the joint letter dated 18 June 2005 from Ms LI Fung-ying, Mr WONG Kwok-hing and Mr KWONG Chi-kin, which was tabled at the meeting. The three members expressed concern about recent press reports relating to the installation of pinhole cameras in the premises of the Cheung Sha Wan Post Office (CSWPO) for monitoring and recording employees' activities,

and suggested that the Panel should discuss the issue. Ms LI Fung-ying pointed out that the installation of such monitoring devices had aroused staff grievances and concerns about the infringement of their personal privacy. She suggested that the Panel should discuss the issue and make a written request to the Postmaster General for disabling the monitoring devices immediately.

3. Mr CHEUNG Man-kwong suggested that the Panel should first request the Administration to provide a written explanation on the issue so that members could decide on the appropriate follow-up actions to be taken. He opined that pinhole cameras installed at locations which might infringe the personal privacy of staff working in CSWPO, such as washrooms or changing rooms, should be disabled immediately. Mr LEUNG Kwok-hung considered the installation of pinhole cameras in CSWPO unacceptable and a disrespect to the staff concerned. He urged that the Administration should provide an explanation and immediately stop the operation of such monitoring devices.

4. While supporting the proposal to seek explanation from the Administration, Mr James TO held reservation towards the immediate disabling of the monitoring devices. He pointed out that the Privacy Commissioner for Personal Data had issued a "Privacy Guidelines: Monitoring and Personal Data Privacy at Work". He recalled that the draft of the Privacy Guidelines, which had previously been discussed at meetings of the Panel on Home Affairs, provided certain circumstances under which the installation of monitoring devices at work place was acceptable.

5. The Chairman suggested that as the Postmaster General had explained to the press earlier on that pinhole cameras were only installed in working areas and not in washrooms or changing rooms, the Panel might consider conducting a site visit to CSWPO to ascertain the purpose and locations of the pinhole cameras, and whether the CSWPO had, in the installation of the monitoring devices, complied with the Privacy Guidelines.

6. After discussion, members agreed that a site visit be arranged to CSWPO as soon as possible. In the meantime, the Postmaster General should be requested to disable pinhole cameras installed at locations which might infringe the personal privacy of staff, if any.

*(Post-meeting note: The Chairman, Deputy Chairman and five members of the Panel conducted a site visit to CSWPO on 28 June 2005. The information provided by the Administration for the briefing during the site visit was circulated to members vide LC Paper No. CB(1)1940/04-05(01) on 29 June 2005.)*

**II. Draft Report of the Panel on Public Service for submission to the Legislative Council in July 2005**  
(LC Paper No. CB(1)1769/04-05(03))

7. The Chairman invited members' comments on the draft report of the Panel for submission to the Legislative Council on 6 July 2005.
8. Members endorsed the draft report. They also authorized the Clerk, in consultation with the Chairman, to incorporate into the report the Panel's major deliberations made at the meeting.

**III. Progress update on the development of an improved pay adjustment mechanism for the civil service**

(LC Paper No. CB(1)1767/04-05(01) — Paper provided by the Administration)

Briefing by the Administration

9. At the invitation of the Chairman, the Permanent Secretary for the Civil Service (PSCS) briefed members on the latest progress of the development of an improved pay adjustment mechanism for the civil service. She pointed out that the Administration had reported to the Panel at its meeting on 21 March 2005 on the outcome of the extensive consultation on proposals regarding the methodology of a pay level survey (PLS) and the general approach for the application of the PLS results. Taking account of the consultation feedback and other relevant considerations, the Administration decided to conduct a PLS in 2005 using the methodology recommended by the Phase One Consultant (i.e. the consultant engaged for the design of the survey methodology) and further refined following the consultation. Members were informed of the Administration's decision vide the LegCo Brief issued on 24 March 2005. PSCS advised that in accordance with the established procedures for the Government's procurement of consultancy services, the Administration had recently appointed a professional consultant to carry out the field work of PLS based on the refined methodology (the Phase Two Consultant).

10. On the survey field work, PSCS briefed members on the three key stages of work, as follows:

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|-----|---|---|
| (a) | Preparatory stage<br>(June – August 2005)                 | Conducting job inspections of<br>civil service benchmark jobs   |
| (b) | Information gathering stage<br>(September – October 2005) | Collecting pay data and other<br>relevant information from the<br>private sector organizations in<br>the survey field |

- |     |  |   |
|-----|--|---|
| (c) | Information consolidation stage<br>(November 2005) | Consolidating and analyzing the collected data according to the adopted methodology |
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11. PSCS pointed out that the guiding principle for the job inspection process was that it must be carried out in a professional and independent manner. The Civil Service Bureau (CSB) had tasked the Phase Two Consultant to exercise professional judgment in working out the implementation details of the job inspection process. At the same time, in order to ensure that the views of the staff members and bodies as well as management were fully taken into account, the Phase Two Consultant was tasked to consult the parties concerned at various stages of the process.

12. On application of the PLS results, PSCS pointed out that the Administration had set out its proposals in the consultation paper published in November 2004, i.e. if the PLS findings revealed that the civil service pay levels exceeded the private sector pay levels, the Administration would freeze the pay of serving officers at the prevailing level until it was caught up by the private sector pay level. The disparity would be noted and would be taken into account in the subsequent annual civil service pay adjustment exercises before the next PLS. For new recruits who joined the civil service after a prospective date, they would be subject to a new set of civil service pay scales drawn up after the PLS. PSCS nevertheless pointed out that the Administration would further consider the application of PLS results and related issues upon the conclusion of the proceedings of the judicial review applications concerning the civil service pay adjustments legislation in the light of the ruling of the Court of Final Appeal (CFA), where applicable.

## Discussion

### *Selection of the Phase Two Consultant*

13. Pointing out that the Phase Two Consultant had been commissioned by the Hong Kong General Chamber of Commerce in 2003 to conduct a survey (the HKGCC survey) with results that civil service pay was much higher than that in the private sector, Mr LEE Cheuk-yan and Mr WONG Kwok-hing were gravely concerned that the Consultant would have formed a pre-determined stance on civil service pay level and therefore could not carry out the survey in a fair and impartial manner. Mr WONG also pointed out that the staff representatives of the Consultative Group on Civil Service Pay Adjustment Mechanism (the Consultative Group) had cast doubt on the credibility of the Consultant in this regard.

14. In reply, PSCS said that the survey methodology of the upcoming PLS had been worked out by the Phase One Consultant in consultation with the Steering Committee on Civil Service Pay Adjustment Mechanism (the Steering Committee) and the Consultative Group. The Phase Two Consultant was tasked to carry out the actual field work of the survey based on the methodology designed during the phase one consultancy. While the Phase Two Consultant might provide its professional

advice for minor adjustment to the survey methodology, such fine-tuning would only be made after thorough consultation with the parties concerned including CSB, the Steering Committee and the Consultative Group.

15. PSCS also explained the process of selection of the Phase Two Consultant. In accordance with the established procedures for procurement of consultancy service, CSB issued invitation for expression of interest from 185 consultancy firms/organizations on the respective consultancy lists of the Efficiency Unit and the Hong Kong Institute of Human Resource Management. By the deadline, seven consultancy firms/organizations expressed interest to participate in the consultancy. The proposals submitted by the seven short-listed firms/organizations were assessed by an Assessment Panel in accordance with pre-determined assessment criteria which awarded separate scores to the technical proposals (such as the experience and expertise of the firms) and the fee proposal. The proposal from Watson Wyatt Hong Kong Limited (Watson Wyatt) received the highest total technical/fee score in the assessment and was appointed to undertake the consultancy. The pre-determined assessment criteria included the following items:

- (a) The approach to be employed by the consultancy firm/organization in providing the consultancy service;
- (b) The suitability of the consultancy firm/organization and its consultancy team in terms of their experience in, and knowledge of, human resource management matters in the civil service and in the private sector;
- (c) The quality of the consultancy firm/organization and its consultancy team in terms of their experience and expertise in carrying out survey or research to collect pay data and information on remuneration practices of private sector companies or organizations in Hong Kong; and
- (d) The consultancy fee proposed.

16. Mr LEE Cheuk-yan was concerned whether the Administration had, in working out the assessment criteria for the consultancy proposal, taken into consideration whether a consultancy firm/organization had any pre-determined stance on civil service pay. He pointed out that the fact that Watson Wyatt had conducted the HKGCC survey would affect the credibility of PLS to be conducted. Mr WONG Kwok-hing requested the Administration to consider appointing another consultant to conduct PLS and enquired whether the change in appointment would involve cost for compensating Watson Wyatt. The Chairman also enquired whether the Administration had taken into account the opinion of civil servants towards the credibility of the consultant in the selection process.

17. In reply, PCSC said that the assessment criteria for selection of consultant were fair and objective. Possible perception of civil servants on the consultancy firm/organization did not constitute an assessment criterion. PSCS explained that appointment of another consultancy firm would not be a practical option. On a general note, given that the Phase Two Consultant was required to have knowledge and experience in human resource management of the civil service and the private sector, it was not surprising that the selected consultant had conducted similar pay surveys for other organizations. The Administration was aware of the previous engagement of Watson Wyatt by HKGCC in the 2003 survey. As far as the Administration knew, the HKGCC survey was conducted with a different methodology. While the HKGCC survey results contained certain figures which had attracted public attention, the results did not imply that the consultant had a stance on the matter. PSCS assured members that PLS would be conducted in an independent manner with staff participation at various stages of the survey to ensure transparency of the process.

18. The Secretary for the Civil Service (SCS) assured members that the Administration attached importance to conducting PLS in a fair, independent and professional manner. He pointed out that continuous efforts had been made in the past two years in reaching a consensus on the survey methodology in consultation with the staff side. The Administration would continue to gauge the views of staff, through the Consultative Group, at different stages throughout the process of the survey. To enhance transparency of the survey, the Administration planned to release the survey report (except commercially sensitive information) for public information.

19. Mr Bernard CHAN pointed out that as far as he knew, the HKGCC survey was simpler than the PLS. To relieve concerns expressed by civil service staff bodies, Mr CHAN requested the Administration to ascertain the survey methodology adopted in the HKCGG survey. PSCS responded that the Administration had requested Watson Wyatt to provide such information. Mr CHAN urged the Administration to explain to civil service staff bodies the differences in the methodology adopted in the HKGCC survey and PLS to relieve their concern that the Phase Two Consultant might have a pre-determine stance on civil service pay. He also enquired whether any team members of the Phase Two Consultant had participated in the HKGCC survey. PSCS advised that the leader of the team had not participated in that survey while the involvement or otherwise of other team members was subject to confirmation by Watson Wyatt.

#### *Job inspection process*

20. Ms LI Fung-ying was concerned that despite the various views and suggestions put forward by members at the Panel meeting on 21 March 2005 on the job inspection process of PLS, the Administration had not mentioned in its paper whether and how far members' views had been taken into account in finalizing the details for the survey fieldwork. In this connection, Ms LI expressed concern on whether the concerns of civil service staff bodies had been taken into account.

21. In response, PCSC explained that the paper provided a general overview on the updated progress of the development of an improved pay adjustment mechanism for the civil service, including the conduct of PLS, and did not attempt to cover details of the survey process. She pointed out that in response to concerns of Panel members and staff bodies, the Administration had put in place measures to ensure staff participation throughout different stages of the job inspection process. The Phase Two Consultant had to take into consideration the views of the Consultative Group and interested civil service staff bodies, arrange briefing sessions for interested staff to gauge their views on the job inspection process and consider the views of the staff sides before making decision on the proposed list of civil service benchmark jobs. Moreover, in drafting the job descriptions for the selected civil service benchmark jobs, departmental management would be requested to consult the respective Departmental Consultative Committees (DCCs). The Consultant would conduct interviews with incumbents of these civil service benchmark jobs to seek their views on the job descriptions. After incorporating their views, the Consultant would further consult the Consultative Group in this regard.

22. Ms LI Fung-ying opined that in identifying private sector jobs for matching with the civil service benchmark jobs, the Administration should be mindful of the inherent differences between the civil service and the private sector. For example, seniority and/or years of work experience were considered important for civil service jobs. PSCS advised that the inherent differences between civil service and private sector jobs would be taken into account in PLS. In working out the detailed job descriptions during the job inspection process, factors such as years of work experience could be reflected in the level of responsibilities of the jobs concerned.

#### *Application of the PLS results*

23. Mr CHEUNG Man-kwong referred to the undertaking given by Mr Donald TSANG in his campaign for the Chief Executive election that civil service pay would not be further reduced. Mr CHEUNG was concerned whether this undertaking would form a bottom line for civil service pay reduction so that civil service pay would not be reduced beyond the levels as at 30 June 1997 even if an improved mechanism for implementing both upward and downward civil service pay adjustments had been put in place.

24. SCS advised that it was the policy of the Government that during its current term of office, the pay of serving civil servants would not be further reduced below the levels as at 30 June 1997 in cash terms. It appeared to him that Mr Donald TSANG was trying to reassure civil servants of the current policy during his election campaign. SCS also clarified that the purpose of conducting a PLS was not for making civil service pay reductions in the short-term. Instead, the PLS would provide objective data for the making of civil service pay scales for application to civil servants appointed after a prospective date. While the Administration would, as part of the exercise of developing an improved pay adjustment mechanism, explore



effective means of implementing both upward and downward pay adjustments, this would have no conflict with the undertaking that pay levels of civil servants serving immediately before 30 June 1997 would not be reduced below the levels as at that date in cash terms.

25. Mr CHEUNG Man-kwong was concerned about the applicability of the PLS results to different groups of civil servants, namely, those appointed before and after 30 June 1997. Given that civil servants appointed under the new entry terms promulgated in 2000 had less favourable terms and conditions of service than their counterparts appointed before, Mr CHEUNG was concerned that if the civil service pay was found to be higher than that of the private sector, application of the PLS results only to officers appointed after 30 June 1997 would further aggravate the disparity in pay between civil servants appointed at different dates.

26. In reply, SCS said that according to the Administration's proposal set out in the consultation document issued in November 2004, the PLS results would only apply to new recruits appointed on or after a prospective date for the implementation of the improved pay adjustment mechanism for the civil service. For serving civil servants, if the PLS results revealed that the civil service pay levels exceeded those of the private sector, the Administration would freeze their pay at the prevailing level until it was caught up by the private sector pay level. The disparity would be noted and taken into account in the subsequent annual civil service pay adjustment exercises before the next PLS. SCS reiterated that the Administration would further consider the application of the PLS results upon the conclusion of the legal proceedings concerning the civil service pay adjustment legislation in the light of the CFA judgment, where applicable. Responding to Mr LEE Cheuk-yan's enquiry, SCS pointed out that as undertaken in his letter to civil servants, the Administration would pay to the civil servants concerned any arrears of pay due at the date of the judgment in the event that the Government lost in the appeal to the CFA.

27. Mr CHEUNG Man-kwong was concerned whether the Administration would, in the event that CFA ruled against the Government, seek an interpretation of the relevant article of the Basic Law from the Standing Committee of the National People's Congress (NPC). SCS responded that the imminent task for the Administration was to defend the Government's position in the CFA hearing and no consideration had been given to the question of seeking an interpretation of the Basic Law from the Standing Committee of NPC at the present stage. Mr CHEUNG opined that SCS's response would leave the issue of whether an interpretation would be sought from the Standing Committee of NPC open. He pointed out that civil service pay was a local affair of the Hong Kong Special Administration Region (HKSAR) which should be decided by the internal mechanisms including judicial systems in the Region.

28. There being no further questions from members, the Chairman concluded the discussion and requested the Administration to keep the Panel posted of the progress of the conduct of the PLS and the development of an improved pay

adjustment mechanism for the civil service.

**IV. Staff consultation mechanism in the civil service**

(LC Paper No. CB(1)1769/04-05(07) — Paper provided by the Administration

LC Paper No. CB(1)209/04-05(02) — Letter dated 3 November 2004 from Hon LEE Cheuk-yan with the Hong Kong Confederation of Trade Unions' complaint to the Committee on Freedom of Association of the International Labour Organization (Appendix I) and 334<sup>th</sup> Report of the Committee on Freedom of Association (Appendix II)

Briefing by the Administration

29. At the Chairman's invitation, the Deputy Secretary for the Civil Service (3) (DSCS3) highlighted the salient points in the Administration's paper as follows:

- (a) Overview of the staff consultation mechanism within the civil service
- The well-established consultative machinery within the civil service was built on three levels: central, departmental and individual.
  - The four Central Staff Consultative Councils (CCCs) included: the Senior Civil Service Council (SCSC), the Model Scale 1 Staff Consultative Council, the Police Force Council and the Disciplined Services Consultative Council.
  - At the departmental level, departments with more than 100 staff were encouraged to set up DCCs. At present, there were 85 DCCs.
  - Individual members of the civil service as well as individual staff associations/unions had ready access to the respective Heads of Department (HoDs) or Grades as well as to CSB to make known their views. There were also established procedures for staff to lodge complaints.
  - The three-tier consultative machinery formed the backbone of the machinery for consultation in the civil service. In addition, the Government established customized procedures/fora for consultation with staff on specific subjects where the circumstances so warranted.

(b) The Government's response to the recommendations made by the Committee on Freedom of Association of the International Labour Organization in its 334<sup>th</sup> Report

- Arising from a submission made by the Hong Kong Confederation of Trade Unions (HKCTU) concerning the 2002 civil service pay adjustment exercise, the Committee on Freedom of Association (the FA Committee) of the International Labour Organization (ILO) made four recommendations in its 334<sup>th</sup> Report.
- The first recommendation was that the Government should be requested to establish a collective bargaining mechanism allowing public employees who were not engaged in the administration of the State to negotiate collectively their terms and conditions of employment in accordance with Article 4 of Convention No. 98. The Administration's understanding was that Article 4 of Convention No. 98 did not place an obligation on any ratified countries/territories to establish a collective bargaining mechanism or to adopt legislative measures for the purpose of establishing such a mechanism. The mechanism for determining the terms and conditions of employment of civil service in Hong Kong, which comprised voluntary negotiation through an elaborate staff consultative machinery, impartial advice by independent bodies to the Government and the Legislative Council (LegCo)'s scrutiny of proposals from the Administration, operated in compliance with the spirit and principles of Article 4 of Convention No. 98.
- The second recommendation was that the Staff Sides of the CCCs were expected to be allowed in future to engage in full and frank consultations with the Government over the terms and conditions of employment of public employees who were engaged in the administration of the State in accordance with Article 7 of Convention No. 151. The Administration reiterated that an elaborate three-tier mechanism operating in compliance with the spirit and principles of Article 4 of Convention No. 98 and Article 7 of Convention No. 151 already existed in the civil service for full and frank consultations between management and staff.
- The third recommendation was that the Government was expected to accept in future the appointment of a committee of inquiry provided in the 1968 Agreement between the Government and the main staff associations (the 1968 Agreement) in case of dispute over the determination of the terms and conditions of employment of public employees. The Government would continue to observe the 1968 Agreement and, in the event of a dispute over the determination of terms and conditions of employment of civil servants in future, consider

appointing a committee of inquiry where appropriate and necessary in accordance with the relevant provisions of the 1968 Agreement.

- The fourth recommendation was that the Government should avail itself of the technical assistance of the International Labour Office so as to bring its law and practice into full conformity with freedom of association standards and principles. The Government was committed to complying with the freedom of association standards and principles. The Government would consider seeking technical assistance from the International Labour Office as and when necessary.

30. DSCS3 assured members that the Administration would continue to monitor closely the operation of the staff consultative machinery within the civil service. Improvements would be made where necessary and appropriate to enhance the effectiveness of consultation with staff on matters affecting their terms and conditions of employment.

### Discussion

#### *Staff consultative machinery in the civil service*

31. Ms LI Fung-ying opined that the Administration, being the biggest employer in Hong Kong, should observe the principles of the international labour conventions and take appropriate measures to promote negotiations with the staff sides. Ms LI pointed out that recent incident of staff objection to the Administration's proposed changes to the payment of Hardship Allowance had demonstrated that the existing staff consultative machinery fell short of the demand for communications with staff bodies on civil service matters. In this connection, Ms LI enquired whether and when the Administration would review the existing consultative machinery and make improvements, such as adjusting the composition of CCCs to include service-wide civil service unions established in the recent decades to SCSC. Mr LEUNG Kwok-hung was also concerned about the composition of the four CCCs and queried whether all staff associations/unions were represented in these Councils in proportion to their membership size.

32. In response, SCS said that the Government valued good staff relations in the civil service and would consult staff on matters that affected them. Apart from the three-tier consultative machinery, the Government established customized procedures/fora for consultation with staff on specific subject where the circumstances so warranted. The Consultative Group was a case in point. SCS advised that in accordance with the agreement between the Administration and the Staff Sides of CCCs, the Administration had to consult the Staff Sides before making any changes to the composition of the Councils. DSCS3 supplemented that the Administration had reported to the Panel in 2000 following a review of the central consultative machinery in the civil service. The Administration kept an open mind

on the admission of civil service unions into SCSC. Any unions which satisfied the admission criteria might apply to join it.

33. Pointing out that there were about 14 000 non-civil service contract (NCSC) staff working in various government departments, Mr WONG Kwok-hing was concerned whether these staff were/would be included in the existing consultative machinery and any collective bargaining mechanism to be established, so that they would be consulted on matters affecting them. Mr WONG stressed that NCSC staff had made contributions to the delivery of public service and it would be unfair to them if they were excluded from the consultative machinery. He was of the view that NCSC staff should be provided with equal opportunities to give their views and to negotiate with the Government on their terms and conditions of employment as their civil service counterparts.

34. Mr LEE Cheuk-yan shared Mr WONG Kwok-hing's concerns. He queried whether the central consultative machinery had been improved to cope with changes in circumstances. He also enquired whether employment matters of NCSC staff had been included in the agenda for meetings of CCCs and whether NCSC staff were represented in the Staff Sides of the Councils.

35. In reply, SCS said that NCSC staff were employed on fixed term contracts with employment packages determined by the relevant HoDs having regard to factors such as the employment market, management and operational considerations of the departments concerned etc. Their terms and conditions of employment, as specified in the contracts, were different from those applicable to civil servants. SCS assured members that HoDs attached importance to maintaining good and effective communications with their staff, civil servants and NCSC staff alike, and would consult the staff concerned on any proposed changes that might affect them.

36. DSCS3 supplemented that individual NCSC staff had been elected to sit on the DCCs of some government departments, in particular those employing a larger number of NCSC staff. Mr WONG Kwok-hing asked for a list of DCCs which had made such representation a standing arrangement. DSCS3 undertook to provide the list. He also instanced cases where proposals applicable to NCSC staff were discussed at CCCs, with the views and concerns of NCSC staff articulated at the meetings. At the request of Mr LEE Cheuk-yan, DSCS3 undertook to provide a list of the staff associations/unions constituting the Staff Sides of the four CCCs which opened their membership to NCSC staff.

*The Government's response to the recommendations of the 334<sup>th</sup> Report of the FA Committee*

37. Mr LEE Cheuk-yan pointed out that HKCTU lodged a complaint to ILO against the Government in respect of the unilateral civil service pay reduction implemented through legislation in 2002. Mr LEE was of the view that SCS, as the principal official accountable for civil service policies, had implemented the 2002

civil service pay adjustment in an inappropriate manner, resulting in the subsequent legal proceedings relating to pay adjustment legislation. Referring to paragraphs 314 and 318 of the 334<sup>th</sup> Report of the FA Committee, Mr LEE pointed out that the Committee had clearly made two strong criticisms of the Government's handling of the 2002 pay adjustment: perfunctory consultations during the 2002 civil service pay adjustment exercise; and avoidance of the procedure in place (i.e. the committee of inquiry in accordance with the 1968 Agreement), for settlement of disputes, which was in violation of Article 8 of Convention No. 151 and Article 4 of Convention No. 98. Mr LEE was disappointed to note that the Administration had not given due consideration nor conducted detailed review of its practices in the light of the recommendations of the FA Committee. He considered that the unilateral civil service pay reduction by legislation did not comply with the international labour convention applied to Hong Kong and was therefore in violation of Article 39 of the Basic Law.

38. In response, SCS said that whether or not the civil service pay adjustment legislation was in conformity with the provisions of the Basic Law was a matter to be determined by the CFA. He would prefer not to give comments before the CFA delivered its verdict. As for the recommendations of the FA Committee, SCS explained that the HKSAR Government had provided to ILO its written response through the proper channel i.e. the Central Government of the People's Republic of China. It was the Administration's understanding that Article 4 of Convention No. 98 did not place an obligation on any ratified countries/territories to establish a collective bargaining mechanism or to adopt legislative measures for the purpose of establishing such a mechanism. SCS pointed out that the terms and conditions of employment of the Hong Kong civil service were policy decisions which could only be implemented after consulting the staff sides, seeking the approval of the Chief Executive in Council and the funding support of the LegCo. Under the current procedures, relevant factors such as the state of the economy and budgetary considerations would be taken into account apart from the staff sides' pay claims in determining the terms and conditions of service of civil servants. As such, it was not a matter that could be decided solely through negotiation between the Government and the staff sides. Having said that, SCS reiterated that the Administration attached importance to maintaining effective communications with the staff sides. The prevailing staff consultative machinery in the civil service provided a robust communication network for gaining staff support for and acceptance of civil service policies.

39. Mr LEE Cheuk-yan considered that SCS was attempting to avoid the crux of the issue on the constitutionality of the pay adjustment legislation by deferring the matter until the CFA ruling was available. Mr LEE pointed out that the establishment of a collective bargaining mechanism would in effect facilitate the implementation of civil service pay reduction as the Administration would not have to resort to the legislative approach or obtaining written consent of every civil servant for the pay reduction. He also pointed out that under the collective bargaining mechanism, there was provision for setting up independent arbitration

committee to resolve pay adjustment matters in the event that the Administration and the staff sides could not reach a consensus through negotiation. Mr LEE was of the view that as the principal official for civil service policies, SCS had the responsibilities to resolve the employment matters between the Government and civil servants.

40. Mr LEUNG Kwok-hung also queried the Administration's rationale for ignoring the recommendation of the FA Committee and declining the request for the establishment of a collective bargaining mechanism for the civil service. In his view, the Administration was trespassing the rights of civil service unions and neglecting the requirements of international labour conventions.

41. In reply, SCS reiterated that the HKSAR Government had provided its response to the FA Committee through the proper channel. Given the circumstances and local conditions in Hong Kong as described in paragraph 38 above, the terms and conditions of employment of civil servants were not matters that could be solely determined by negotiations between the Government and its employees. At the request of Mr LEUNG Kwok-hung, SCS agreed to confirm after the meeting whether the FA Committee or ILO had made any further comments on the Government's response. If so, the Administration would provide the Committee/ILO's comments (and the Government's further response, where applicable) to the Panel for information.

*(Post-meeting note: The Administration's response to members' requests mentioned in paragraphs 36 and 41 above was issued to members vide LC Paper No. CB(1)2008/04-05(03) on 7 July 2005.)*

## **V. Any other business**

### Concluding remarks

42. As this was the last regular Panel meeting for the 2004-05 session, the Chairman took the opportunity to thank members for their contribution in the session. He also thanked SCS and his colleagues, and the LegCo Secretariat for their support to the work of the Panel.

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